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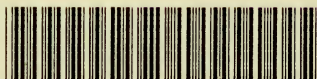
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STATUTES IN FORCE

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RELATING TO

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362.5 V.I.

THE POOR LAWS;

TO

BOARDS OF GUARDIANS, DISTRICT SCHOOL AND ASYLUM
MANAGERS, OVERSEERS,

AND THE

LOCAL GOVERNMENT BOARD,

FROM

43 ELIZ. c. 2, to 35 & 36 VICT. c. 93;

TOGETHER WITH

Digests of the Decisions of the Courts upon each Statute.

IN TWO VOLUMES.

BY

WILLIAM CUNNINGHAM GLEN,

BARRISTER-AT-LAW.

VOL. I.

London :

SHAW AND SONS, FETTER LANE,

Law Publishers.

1873.

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P R E F A C E.

THE Poor Law Commissioners, in their Report on the further amendment of the Poor Laws, stated that they wished to submit to the then Secretary of State, a digest of the various Acts relating to the Relief of the Poor, similar to the digests of the Revenue Laws, and of several branches of the Criminal Law which had been prepared by Government and approved of by Parliament, and that it appeared to them that a consolidation of the various Acts relating to the Relief of the Poor would be a work of eminent utility, inasmuch as the numerous authorities—Boards of Guardians, Overseers, Auditors, and Justices of the Peace,—who now administer these Acts, can scarcely be expected to possess sufficient leisure to become acquainted with their numerous provisions, and with the multitude of judicial decisions by which they have been interpreted and applied. They added, however, that they thought that the time had not arrived when such a consolidation could be attempted with the best prospect of success; though they stated that they would be ready to undertake it whenever a fit season should present itself. This was in the year 1839, and no really practical attempt having been made to consolidate the Poor Laws, in the year 1856 I undertook the laborious task of collecting in chronological order the Statutes and parts of Statutes then in force relating to the Poor, to Parochial Unions, and Parishes, and I incorporated with them in the same order the Statutes which cast any obligation or duty foreign to the subject of Poor Laws upon Boards of Guardians, Overseers of the Poor, and Union or Parish Officers. Having done so, I collated the

Statutes with each other, and added references to the Cases decided by the Courts upon each, and the work was published in one volume in the year 1857. Afterwards a second volume was added, bringing the collection of Poor Law Statutes and Cases down to the 29 & 30 Vict. c. 118.

Though the Poor Law Commissioners made no signs of their being occupied in consolidating the Poor Laws, it was thought by some that the time had arrived when an attempt to consolidate them should be made, and by questions in the House of Commons it was sought to elicit what were the intentions of successive Governments on the subject. The Right Honourable C. P. VILLIERS, President of the Poor Law Board, being asked whether, with a view to simplify and render more easy of reference the very numerous Statutes relating to the relief of the Poor, any effort was being made by the Poor Law Board to procure the consolidation of such Statutes, said that the Poor Law Board did not then contemplate making any effort to consolidate the Statutes relating to the Poor. Some years ago, he said, the Commissioners of the Poor Laws had deemed it of great importance to have a digest made of those numerous Statutes spreading over a period of nearly three hundred years; and the services of a very able and well-known gentleman were engaged for that purpose (*a*); but for some reasons that were deemed sufficient at the time, he was not allowed to finish his work, nor had he been remunerated for his services. Since that time a very valuable work had been published by a gentleman in the Poor Law Department, which was generally considered, from its nature and arrangement, to answer all the purposes of consolidation, presenting, within a short compass and a simple form, all the enactments affecting the Relief of the Poor, as well as the Union and Parochial Officers. It was a book of general reference throughout the Unions of the country (*b*). Afterwards, Mr. SCLATER-BOOTH, Secretary to the Poor Law Board under Mr. Disraeli's administration, in reply to an inquiry whether it was his intention to introduce a Bill to consolidate and amend the Laws for the Relief of

(*a*) The late Mr. George Coode.

(*b*) *Hansard*, vol. 173, p. 1334.

the Poor, said that it was his intention, as soon as possible after the recess, to introduce a Bill for the Amendment, but not for the Consolidation, of the Laws relating to the Relief of the Poor. Many high authorities, he said, were of opinion that it would be premature to attempt to consolidate the Statutes relating to this subject. He might mention, however, that all those Statutes up to the end of the year 1866, had been collected and edited in a form very compendious and easy of access by a gentleman highly qualified for the task (c).

Considering that since the year when the Poor Law Commissioners made their suggestion for a consolidation of the Poor Laws, there have been passed 228 Statutes, having relation more or less to Poor Law administration, and to the functions of Union and Parochial authorities, many of such Statutes making fundamental changes in the Poor Law system, it will not be difficult for any one in the least degree acquainted with the subject to realize how futile it would have been to attempt a work which, almost before it was accomplished, would have been rendered useless by new legislation bearing on the same subject. In fact consolidation of any class of Statutes scarcely lasts beyond the Session in which it is effected. This may be seen in the present Criminal Law Consolidation Statutes, and in many others.

Law cannot be made a matter of simplicity ;—codify it, digest it, or consolidate it, and it will still remain a subject of difficulty upon which minds must differ. Even in Mr. Foley's time, it was proposed to reduce all the Laws relating to the Poor into one. The advertisement to his work contains remarks on this point which are as applicable now as then, and to this work as to Mr. Foley's. "A commendable design," the advertisement says, "if it can be effected, and to which a book of this nature must be a good preparative. But I humbly submit it to better judgment, whether it would not be more advisable to retain our old laws, whose sense and meaning have been determined by various decisions, and to go on with making supplemental Acts, where these are found defective, than to run the hazard of a new one, which, perhaps, may

be liable to as many misconstructions as the former have already gone through."

Moreover, history belies itself when a Statute of Queen Elizabeth becomes, by repeal and re-enactment, a Statute of Queen Victoria.

Mr. Foley's work, published in 1739, collected together all the Laws relating to the Poor, from 43 Eliz., when they first commence, to the time of its publication, and explained those Laws with the Cases adjudged upon them. The present work follows the same excellent plan. The Cases are, as in Mr. Foley's work, interspersed and follow the very clauses of each Statute from which they derive their force and efficacy,—and, as in his work, from a view of the progress of the several Acts of Parliament, the reader sees, in an historical light, the particular inconvenience each was intended to guard against. In the Cases or decisions that follow he sees the artifice of evasion, and traces the "windings and doubles of human reason."

Without laborious study no one can affect, merely from perusing an Act of Parliament, to have a complete knowledge of the law that it deals with. Such a person would be in the possession of an instrument, useful, it is true, in the hands of one skilled in the art to which it is adapted, and who is familiar with all other necessary instruments of his art, but it would be useless to another ignorant of or unskilled in the same art.

I have not found it always easy to determine what parts of Statutes should be retained and what rejected, with reference to the object of this work;—no doubt opinions will differ as to how far a particular enactment bears directly on Poor Laws. In determining what shall be retained and what shall be rejected, I have been guided by my own experience of what is required for practical use, and those who also have had practical experience of Poor Law administration, will no doubt be able to discriminate where I may have erred in prolixity, and where I have judiciously retained enactments which others may think ought to have been omitted. Suffice it to say, that the present Edition contains, wholly or in part, 377 Statutes bearing directly on Poor Laws, or which are necessary to be known in connection with Poor Law administration, or by Poor Law administrators.

Some few repealed enactments are necessarily contained in the collection, such as those relating to settlement by hiring and service, as well as others which, though repealed, are the basis of past transactions affecting the present settlement of the poor and other matters, and are therefore still in so far the basis of Poor Law administration. The introductory words "And be it enacted" to the sections of the Statutes prior to Lord Brougham's Act, 13 Vict. c. 21, for shortening the language of Statutes have not been reprinted; and, for convenience, the last year of the reign of William the Fourth is omitted as a prefix to the titles of the Statutes of the first year of the reign of Queen Victoria. It is also necessary to state that from the present work have been expurgated all those Statutes which are classed under the head of Sanitary Laws; to have inserted them would have encumbered the work to an inconvenient degree. They will be more conveniently referred to in other works bearing directly on the Law of Public Health and Local Government.

The digest of the Cases, of which there are 3,680 in the work, I have made as concise as each could be made consistently with giving expression to the point decided in the case;—to have done more would necessarily have increased not only the labour, but the size of the work to an extent which the necessities of a book of reference of this nature would not have justified. No doubt some decisions are digested in the work which are either not now followed, or which are obsolete or are now inapplicable. Many of these decisions, however, illustrate principles of construction of Statutes, and I have not attempted to eliminate from the work all such as I might consider to be not now law—indeed it would obviously have been presumption in me had I done so. I have preferred to give the Cases as I find them, leaving the practitioner to apply them to the particular matter that may be under his consideration.

As a matter of historical interest, I have given, in notes to the 4 & 5 Will. 4, c. 76, s. 10; 10 & 11 Vict. c. 109, s. 1; and 34 & 35 Vict. c. 70, s. 3, the names and periods of service of the several Poor Law Commissioners, Presidents of the Poor Law Board and of the Local Government

Board; and the like information in regard to their respective secretaries and assistant secretaries.

The Index—a most important feature in a work of this nature—has been made very voluminous and exhaustive.

This work, undertaken in compliance with the wishes of the Clerks to many Boards of Guardians, is now finished; and I leave it to those for whose use it is destined to judge whether it has been well done.

My acknowledgments are due to Mr. DANBY P. FRY, Barrister-at-Law and Local Government Inspector, for many valuable suggestions; also for the able assistance received from Mr. ALEXANDER GLEN, B.A., LL.B., of Christ's College, Cambridge, Barrister-at-Law, in collecting and arranging the Cases. They have enabled me to render the work more perfect than it otherwise might have been.

I have not dedicated this work in the usual stereotype manner to one individual; but I do so to the Legal Profession, Boards of Guardians, Clerks to Unions, and all others locally interested in the administration of the Poor Laws.

W. C. G.

5, ELM COURT, TEMPLE.

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Since the Sheets of this work were printed off, the following Decisions have been reported.

43 ELIZ. CHAP. 2, s. 1.

POOR RATE—CHALK PITS.

With regard to the assessment of certain chalk-pits to the poor rate, it was held that although the convenience and situation of the chalk-pits were to be considered in estimating what rent a tenant would reasonably pay, the actual profits derived from working the pits were not material in forming that estimate: *Reg. v. Aylesford Union*, 26 L. T. (N. S.) 618.

POOR RATE—MARKET TOLLS—CATTLE BROUGHT INTO MARKET-PLACE, BUT NOT OCCUPYING ANY PART OF THE SOIL.

By a local Act, the tolls in respect of cattle brought to the market of Wolverhampton for sale, become due as soon as the cattle in respect whereof they are demandable, are brought into the market-place: Held, that the lessee of the market was not rateable in respect of tolls received for animals brought into the market-place for sale, but not placed under covered places or in pens so as to occupy any part of the soil: *Caswell v. Borough of Wolverhampton*, 41 L. J. M. C. 108; L. R. 7 Q. B. 328; 26 L. T. (N. S.) 574.

POOR RATE—RATEABILITY OF SURFACE LANDS OCCUPIED WITH AND USED IN WORKING IRON MINE.

The appellant was owner and occupier of iron mines extending over an area of about 310 acres. He was also occupier of about two and a half acres of surface land, part of which was above and part separate from the mines. Upon the surface land were buildings (containing pumping-engines, boilers, and workshops) and tramways used in bringing and conveying away the ore from the mines. This surface land, &c., apart from the mines, were practically valueless: Held, that although the appellant was not rateable in respect of the iron mines, yet that he was rateable in respect of the surface land, &c., at a rent calculated with reference to the value of such surface land, &c., to the occupier of the mine: (*Rex v. Bilston*, 5 B. & C. 851, *post*, pp. 44, 45, discussed); *Guest v. East Dean*, 129; 41 L. J. M. C. 129; L. R. 7 Q. B. 334; 26 L. T. (N. S.) 422; 36 J. P. 342.

POOR RATE—OCCUPATION OF COMMON LAND.

Under the provisions of a special Act of parliament the Conservators of Wimbledon Common were to permit the National Rifle Association to occupy from year to year as a rifle shooting ground and place for an encampment for the purposes of the annual rifle meeting, any part of a certain specified area of the common, together with the butts, targets, and

 POOR RATE—OCCUPATION OF COMMON LAND—*continued*.

other conveniences for rifle shooting for the time being thereon. The occupation was not to be for more than seventy-seven consecutive days in each year, which days were not to commence earlier than the 1st of May, and were to terminate not later than the 31st of August. The association were empowered to put up a paling round the part occupied by them, and to erect temporary buildings. Prior to the passing of the special Act, the association erected butts for shooting, and also a store-shed, used for the storage of materials, except during the annual meetings, when it was intended to be used as a workshop for the repairs of targets, &c. By the terms of the Act, the association were not to acquire any right in or easement over any part of the common, and were to be deemed to be merely in the enjoyment of a statutory privilege over the common. On the 27th of March last, before the period of occupation in that year commenced, a poor rate was made for the parish of Wimbledon, in which the association were rated in respect of the area, the butts and the store-shed: Held, that with respect to the area and the butts there was no such exclusive occupation as to render them liable to poor rate, but that with respect to the store-shed which was occupied by them for their own purposes throughout the year, they were liable: *Mildmay v. Wimbledon*, 41 L. J. M. C. 133; 27 L. T. (N. S.) 265.

POOR RATE—OCCUPATION OF MOORINGS ON RIVER, AND COAL DERRICK.

Appellants were owners of a coal derrick, which rides afloat on the river Thames within the parish of Greenwich, and is retained at the spot where it floats by two single fluke anchors on the side nearest the shore, by two stones on the channel side, and by two stream anchors, one at the head and the other at the stern. The anchors and stones were merely dropped into the river, but before dropping the stones a small quantity of ballast was removed in the bed of the river so that the stones might lie flat and securely. The stones were merely to serve the purpose of anchors. The derrick was formerly stationed in another part of the river, and was moved thence to its present position, bringing with it anchors and stones. It had been anchored at the same place for some years, but daily changed its position slightly with the ebb and flow of the tide. By agreement with the Conservators of the Thames, in whom the soil of the bed of the river is vested, and who have the management, and by whose permission the derrick was moored where it was, it was liable to be removed by them to another part of the river. On the hearing of summonses against the appellants for non-payment of rates, to which they had been rated in respect of the moorings by which the derrick was attached to the soil, the magistrate found as a fact that the appellants were occupiers of the soil in the bed of the river, on which the moorings were placed: Held, that notwithstanding the finding of the magistrate, there was no such occupation of the soil of the river, upon the facts stated in the case, by the appellants as to make them liable to be assessed to the poor rate: *Cory v. Greenwich*, 41 L. J. M. C. 142; 27 L. T. (N. S.) 150; L. R. 7 C. P. 499.

POOR RATE—DOCKS.

The rate is to be made on a sum ascertained by calculating the gross earnings of the docks within the parish, and deducting the amount of the necessary expenditure within the same parish. The acreage system is to be resorted to only *ex necessitate rei*: *Mersey Docks and Harbour Board v. Liverpool*, 26 L. T. (N. S.) 868; L. R. 7 Q. B. 643; 41 L. J. M. C. 161.

59 GEO. III. CHAP. 12, s. 7.

LIABILITY OF SURETY.

If an employer discovers the unfaithfulness of his servant, whose honesty has been guaranteed by another, and does not disclose the servant's unfaithfulness, the guarantor will be exonerated from making good any subsequent loss to the employer by the dishonesty of the servant: *Phillips v. Foxall*, 27 L. T. (N. S.) 231; L. R. 7 Q. B. 666.

QUO WARRANTO FOR OFFICE OF ASSISTANT OVERSEER.

On the return to a rule for a *quo warranto* for the office of assistant overseer, the court held that if the election was really contrary to the will of the inhabitants, the inhabitants could revoke it by another meeting, and it was not necessary to resort to the cumbrous and costly proceeding by *quo warranto*, even if that proceeding were available at all for the office of assistant overseer, which the court doubted. The application was therefore dismissed with costs: *In re Simpson, in re Tudhoe*, MS.

4 & 5 WILL. IV. CHAP. 76, s. 46.

APPOINTMENT OF OFFICERS.

The appointment by a corporation, such as a board of poor law guardians, of a person to be "medical officer" to the corporation for any fixed or definite period of time, ought to be under seal: *Dyte v. St. Pancras Board of Guardians*, 27 L. T. (N. S.) 342.

3 & 4 VICT. CHAP. 54.

LUNATIC PRISONER—LIABILITY OF GUARDIANS.

Where the keeper of a private asylum received an insane prisoner by virtue of a warrant of a secretary of state under 3 & 4 Vict. c. 54, and the guardians of a union during thirteen years paid him for maintenance a certain weekly sum, which was a reasonable sum in that behalf: Held, that the inference was, that either there had been an order of justices for payment of such sum or an arrangement to pay the same or a reasonable sum during the time the lunatic was kept, and that as the lunatic was not removed, and the keeper could not turn him out, the guardians were bound to pay the keeper at the same rate: *Pegge v. Lampeter Union*, 41 L. J. C. P. 204; L. R. 7 C. P. 366; 27 L. T. (N. S.) 269.

8 VICT. CHAP. 18, s. 123.

POOR RATE—RAILWAY COMPLETED IN PART.

With reference to an Act for constructing a railway, it was held as soon as a portion of railway which lay within a parish was completed and worked as a railway, it became "liable to be assessed," and the company ceased as to that portion to be liable to make good the deficiency in the rates: (*Reg. v. Metropolitan District Railway Company*, post, p. 56, commented on); *Whitechurch v. East London Railway Company*, 41 L. J. M. C. 123; L. R. 7 Exch. 248; 26 L. T. (N. S.) 635.

9 & 10 VICT. CHAP. 66, s. 1.

POOR REMOVAL—BREAK OF RESIDENCE.

Pauper had lived twenty-eight years in a parish from which she was ordered to be removed. During the last four years she was at intervals in

POOR REMOVAL—BREAK OF RESIDENCE—continued.

the workhouse, and had no other place of residence. Upon leaving the workhouse in 1870, she was for six weeks in domestic service in the parish, after which, finding herself too old for such service, she left, saying that she wished to have a holiday. She stayed six days out of the parish with a son and a friend. She then returned to the workhouse of the parish, from which she was afterwards removed to her place of settlement: Held, that there had been no break of residence, although the pauper had no place of residence to which she could return: (see *Reg. v. Glossop*, *post*, pp. 846, 849); *Reg. v. St. Ives*, 26 L. T. (N. S.) 393; L. R. 7 Q. B. 467; 41 L. J. M. C. 41.

25 & 26 VICT. CHAP. 43, s. 1.
REMOVAL OF CHILD FROM SCHOOL.

Where the mother of a child (though a Roman Catholic, and the father being dead) had consented to the child being placed in a Protestant school for destitute children, and afterwards, being in a workhouse, had desired that the child should be removed to a Roman Catholic school, the court refused a *habeas corpus* to remove the child: *In re Turner*, *Ex parte Turner*, 41 L. J. Q. B. 142.

32 & 33 VICT. CHAP. 67.
APPEAL—JURISDICTION OF SESSIONS.

Where by a local Act persons aggrieved by any rate or other matter done in pursuance of that Act, must apply to the guardians of the parish appointed under the local Act before appealing to quarter sessions, it was held upon a rule for a *certiorari* that the quarter sessions had no jurisdiction, there having been no previous appeal to the guardians as provided by the local Act: *Reg. v. Middlesex JJ.*, 26 L. T. (N. S.) 902; L. R. 7 Q. B. 653.

Temple, 11th Nov. 1872.

**ENACTMENTS CONTAINED IN THIS WORK WHICH HAVE
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" " - -	ways" to end		
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THE STATUTES IN FORCE

RELATING TO

THE POOR, GUARDIANS, OVERSEERS, UNIONS AND PARISHES.

43 ELIZ. CHAP. 2.

An Act for the Relief of the Poor (*a*).

BE it enacted by the authority of this present parliament, that the churchwardens (*b*) of every parish (*c*), and four, three or two substantial householders there (*d*), as shall be thought meet, having respect to the proportion and greatness of the same parish [or*] parishes, to be nominated yearly in Easter week, or the poor ; within one month after Easter (*e*), under the hand and seal of two or more justices of the peace in the same county (*f*), whereof one to be of the quorum, dwelling in or near the same parish or division where the same parish doth lie, shall be called overseers to set poor of the poor of the same parish (*g*), and they, or the greater part of children, &c. them shall take order from time to time, by and with the con- to work ; sent of two or more such justices of peace as is aforesaid (*h*), for setting to work of the children of all such whose parents shall not by the said churchwardens and overseers, or the greater part of them, be thought able to keep and maintain their children ; and to raise a and also for setting to work all such persons, married or un- stock for that married, having no means to maintain them, use no ordi- purpose ; nary and daily trade of life to get their living by : and also to raise weekly or otherwise, by taxation of every inhabitant, parson, vicar and other, and of every occupier of lands, houses,

(*a*) This Act was continued by 2 s. 4 ; 29 & 30 Vict. c. 113, s. 11 ; Jac. 1, c. 25 ; 2 Jac. 1, c. 28 ; 3 Car. and 31 & 32 Vict. c. 122, s. 27.
1, c. 4, and made perpetual by 16 * "and" in original.
Car. c. 4. (*e*) See 54 Geo. 3, c. 91.

(*b*) See 5 & 6 Will. 4, c. 62, s. 9 ; (*f*) See 12 Vict. c. 8, s. 1 ; and 12
29 & 30 Vict. c. 113, s. 12. & 13 Vict. c. 64.

(*c*) See 17 Geo. 2, c. 38, s. 15 ; (*g*) See 17 Geo. 2, c. 38, s. 15 ; 18
14 Car. 2, c. 12, ss. 21, 22 ; and Geo. 2, c. 15, s. 10 ; 59 Geo. 3, c. 12,
59 Geo. 3, c. 95. ss. 6, 35 ; 7 & 8 Vict. c. 101, s. 22 ;

(*d*) See 12 & 13 Vict. c. 103, s. 6 ; 20 Vict. c. 19, s. 1 ; 29 & 30 Vict.
13 & 14 Vict. c. 101, s. 6 ; 20 Vict. c. 113, ss. 10, 11.

c. 19, ss. 1, 2 ; 29 & 30 Vict. c. 66, (*h*) See 32 & 33 Vict. c. 4, ss. 17, 18.

Board; and the like information in regard to their respective secretaries and assistant secretaries.

The Index—a most important feature in a work of this nature—has been made very voluminous and exhaustive.

This work, undertaken in compliance with the wishes of the Clerks to many Boards of Guardians, is now finished; and I leave it to those for whose use it is destined to judge whether it has been well done.

My acknowledgments are due to Mr. DANBY P. FRY, Barrister-at-Law and Local Government Inspector, for many valuable suggestions; also for the able assistance received from Mr. ALEXANDER GLEN, B.A., LL.B., of Christ's College, Cambridge, Barrister-at-Law, in collecting and arranging the Cases. They have enabled me to render the work more perfect than it otherwise might have been.

I have not dedicated this work in the usual stereotype manner to one individual; but I do so to the Legal Profession, Boards of Guardians, Clerks to Unions, and all others locally interested in the administration of the Poor Laws.

W. C. G.

5, ELM COURT, TEMPLE.

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Since the Sheets of this work were printed off, the following Decisions have been reported.

43 ELIZ. CHAP. 2, s. 1.

POOR RATE—CHALK PITS.

With regard to the assessment of certain chalk-pits to the poor rate, it was held that although the convenience and situation of the chalk-pits were to be considered in estimating what rent a tenant would reasonably pay, the actual profits derived from working the pits were not material in forming that estimate: *Reg. v. Aylesford Union*, 26 L. T. (N. S.) 618.

POOR RATE—MARKET TOLLS—CATTLE BROUGHT INTO MARKET-PLACE, BUT NOT OCCUPYING ANY PART OF THE SOIL.

By a local Act, the tolls in respect of cattle brought to the market of Wolverhampton for sale, become due as soon as the cattle in respect whereof they are demandable, are brought into the market-place: Held, that the lessee of the market was not rateable in respect of tolls received for animals brought into the market-place for sale, but not placed under covered places or in pens so as to occupy any part of the soil: *Caswell v. Borough of Wolverhampton*, 41 L. J. M. C. 108; L. R. 7 Q. B. 328; 26 L. T. (N. S.) 574.

POOR RATE—RATEABILITY OF SURFACE LANDS OCCUPIED WITH AND USED IN WORKING IRON MINE.

The appellant was owner and occupier of iron mines extending over an area of about 310 acres. He was also occupier of about two and a half acres of surface land, part of which was above and part separate from the mines. Upon the surface land were buildings (containing pumping-engines, boilers, and workshops) and tramways used in bringing and conveying away the ore from the mines. This surface land, &c., apart from the mines, were practically valueless: Held, that although the appellant was not rateable in respect of the iron mines, yet that he was rateable in respect of the surface land, &c., at a rent calculated with reference to the value of such surface land, &c., to the occupier of the mine: (*Rex v. Bilston*, 5 B. & C. 851, *post*, pp. 44, 45, discussed); *Guest v. East Dean*, 129; 41 L. J. M. C. 129; L. R. 7 Q. B. 334; 26 L. T. (N. S.) 422; 36 J. P. 342.

POOR RATE—OCCUPATION OF COMMON LAND.

Under the provisions of a special Act of parliament the Conservators of Wimbledon Common were to permit the National Rifle Association to occupy from year to year as a rifle shooting ground and place for an encampment for the purposes of the annual rifle meeting, any part of a certain specified area of the common, together with the butts, targets, and

 POOR RATE—OCCUPATION OF COMMON LAND—*continued*.

other conveniences for rifle shooting for the time being thereon. The occupation was not to be for more than seventy-seven consecutive days in each year, which days were not to commence earlier than the 1st of May, and were to terminate not later than the 31st of August. The association were empowered to put up a paling round the part occupied by them, and to erect temporary buildings. Prior to the passing of the special Act, the association erected butts for shooting, and also a store-shed, used for the storage of materials, except during the annual meetings, when it was intended to be used as a workshop for the repairs of targets, &c. By the terms of the Act, the association were not to acquire any right in or easement over any part of the common, and were to be deemed to be merely in the enjoyment of a statutory privilege over the common. On the 27th of March last, before the period of occupation in that year commenced, a poor rate was made for the parish of Wimbledon, in which the association were rated in respect of the area, the butts and the store-shed: Held, that with respect to the area and the butts there was no such exclusive occupation as to render them liable to poor rate, but that with respect to the store-shed which was occupied by them for their own purposes throughout the year, they were liable: *Mildmay v. Wimbledon*, 41 L. J. M. C. 133; 27 L. T. (N. S.) 265.

POOR RATE—OCCUPATION OF MOORINGS ON RIVER, AND COAL DERRICK.

Appellants were owners of a coal derrick, which rides afloat on the river Thames within the parish of Greenwich, and is retained at the spot where it floats by two single fluke anchors on the side nearest the shore, by two stones on the channel side, and by two stream anchors, one at the head and the other at the stern. The anchors and stones were merely dropped into the river, but before dropping the stones a small quantity of ballast was removed in the bed of the river so that the stones might lie flat and securely. The stones were merely to serve the purpose of anchors. The derrick was formerly stationed in another part of the river, and was moved thence to its present position, bringing with it anchors and stones. It had been anchored at the same place for some years, but daily changed its position slightly with the ebb and flow of the tide. By agreement with the Conservators of the Thames, in whom the soil of the bed of the river is vested, and who have the management, and by whose permission the derrick was moored where it was, it was liable to be removed by them to another part of the river. On the hearing of summonses against the appellants for non-payment of rates, to which they had been rated in respect of the moorings by which the derrick was attached to the soil, the magistrate found as a fact that the appellants were occupiers of the soil in the bed of the river, on which the moorings were placed: Held, that notwithstanding the finding of the magistrate, there was no such occupation of the soil of the river, upon the facts stated in the case, by the appellants as to make them liable to be assessed to the poor rate: *Cory v. Greenwich*, 41 L. J. M. C. 142; 27 L. T. (N. S.) 150; L. R. 7 C. P. 499.

POOR RATE—DOCKS.

The rate is to be made on a sum ascertained by calculating the gross earnings of the docks within the parish, and deducting the amount of the necessary expenditure within the same parish. The acreage system is to be resorted to only *ex necessitate rei*: *Mersey Docks and Harbour Board v. Liverpool*, 26 L. T. (N. S.) 868; L. R. 7 Q. B. 643; 41 L. J. M. C. 161.

59 GEO. III. CHAP. 12, s. 7.

LIABILITY OF SURETY.

If an employer discovers the unfaithfulness of his servant, whose honesty has been guaranteed by another, and does not disclose the servant's unfaithfulness, the guarantor will be exonerated from making good any subsequent loss to the employer by the dishonesty of the servant: *Phillips v. Foxall*, 27 L. T. (N. S.) 231; L. R. 7 Q. B. 666.

QUO WARRANTO FOR OFFICE OF ASSISTANT OVERSEER.

On the return to a rule for a *quo warranto* for the office of assistant overseer, the court held that if the election was really contrary to the will of the inhabitants, the inhabitants could revoke it by another meeting, and it was not necessary to resort to the cumbrous and costly proceeding by *quo warranto*, even if that proceeding were available at all for the office of assistant overseer, which the court doubted. The application was therefore dismissed with costs: *In re Simpson, in re Tudhoe*, MS.

4 & 5 WILL. IV. CHAP. 76, s. 46.

APPOINTMENT OF OFFICERS.

The appointment by a corporation, such as a board of poor law guardians, of a person to be "medical officer" to the corporation for any fixed or definite period of time, ought to be under seal: *Dyte v. St. Pancras Board of Guardians*, 27 L. T. (N. S.) 342.

3 & 4 VICT. CHAP. 54.

LUNATIC PRISONER—LIABILITY OF GUARDIANS.

Where the keeper of a private asylum received an insane prisoner by virtue of a warrant of a secretary of state under 3 & 4 Vict. c. 54, and the guardians of a union during thirteen years paid him for maintenance a certain weekly sum, which was a reasonable sum in that behalf: Held, that the inference was, that either there had been an order of justices for payment of such sum or an arrangement to pay the same or a reasonable sum during the time the lunatic was kept, and that as the lunatic was not removed, and the keeper could not turn him out, the guardians were bound to pay the keeper at the same rate: *Pegge v. Lampeter Union*, 41 L. J. C. P. 204; L. R. 7 C. P. 366; 27 L. T. (N. S.) 269.

8 VICT. CHAP. 18, s. 123.

POOR RATE—RAILWAY COMPLETED IN PART.

With reference to an Act for constructing a railway, it was held as soon as a portion of railway which lay within a parish was completed and worked as a railway, it became "liable to be assessed," and the company ceased as to that portion to be liable to make good the deficiency in the rates: (*Reg. v. Metropolitan District Railway Company*, post, p. 56, commented on); *Whitechurch v. East London Railway Company*, 41 L. J. M. C. 123; L. R. 7 Exch. 248; 26 L. T. (N. S.) 635.

9 & 10 VICT. CHAP. 66, s. 1.

POOR REMOVAL—BREAK OF RESIDENCE.

Pauper had lived twenty-eight years in a parish from which she was ordered to be removed. During the last four years she was at intervals in

 POOR REMOVAL—BREAK OF RESIDENCE—*continued*.

the workhouse, and had no other place of residence. Upon leaving the workhouse in 1870, she was for six weeks in domestic service in the parish, after which, finding herself too old for such service, she left, saying that she wished to have a holiday. She stayed six days out of the parish with a son and a friend. She then returned to the workhouse of the parish, from which she was afterwards removed to her place of settlement: Held, that there had been no break of residence, although the pauper had no place of residence to which she could return: (see *Reg. v. Glossop, post*, pp. 846, 849); *Reg. v. St. Ives*, 26 L. T. (N. S.) 393; L. R. 7 Q. B. 467; 41 L. J. M. C. 41.

 25 & 26 VICT. CHAP. 43, s. 1.

REMOVAL OF CHILD FROM SCHOOL.

Where the mother of a child (though a Roman Catholic, and the father being dead) had consented to the child being placed in a Protestant school for destitute children, and afterwards, being in a workhouse, had desired that the child should be removed to a Roman Catholic school, the court refused a *habeas corpus* to remove the child: *In re Turner, Ex parte Turner*, 41 L. J. Q. B. 142.

 32 & 33 VICT. CHAP. 67.

APPEAL—JURISDICTION OF SESSIONS.

Where by a local Act persons aggrieved by any rate or other matter done in pursuance of that Act, must apply to the guardians of the parish appointed under the local Act before appealing to quarter sessions, it was held upon a rule for a *certiorari* that the quarter sessions had no jurisdiction, there having been no previous appeal to the guardians as provided by the local Act: *Reg. v. Middlesex JJ.*, 26 L. T. (N. S.) 902; L. R. 7 Q. B. 653.

Temple, 11th Nov. 1872.

 ENACTMENTS CONTAINED IN THIS WORK WHICH HAVE
SINCE BEEN REPEALED.

Statutes.	Extent of Repeal.	Page.	Repealing Statute.
14 Car. 2, c. 12 - -	Section 15 -	126	} 35 & 36 Vict. c. 92, s. 13.
" " " "	" 18 -	127	
18 Geo. 3, c. 19 - -	" 4 -	266	
39 & 40 Geo. 3, c. 99	" 8 -	306	} 35 & 36 Vict. c. 93, s. 4.
48 Geo. 3, c. 75 - -	" 14 -	335	
49 Geo. 3, c. 68 - -	" 3 -	335	} 35 & 36 Vict. c. 97.
7 & 8 Vict. c. 101 -	" 2 -	769	
" "	" 3 -	769	
" "	Section 5, from	772	} 35 & 36 Vict. c. 65, s. 2.
" "	"provided al-		
" "	ways" to end		
" "	of section.		} 35 & 36 Vict. c. 94, s. 75.
" "	Section 7, to	772	
" "	"provided al-		
" "	ways."		} 35 & 36 Vict. c. 94, s. 75.
31 & 32 Vict. c. 122	Section 41 -	1337	
32 & 33 Vict. c. 27 -	" 22 -	1339	
35 & 36 Vict. c. 29 -	" 17 -	1406	

THE STATUTES IN FORCE

RELATING TO

THE POOR, GUARDIANS, OVERSEERS, UNIONS AND PARISHES.

43 ELIZ. CHAP. 2.

An Act for the Relief of the Poor (*a*).

BE it enacted by the authority of this present parliament, that the churchwardens (*b*) of every parish (*c*), and four, three or two substantial householders there (*d*), as shall be thought meet, having respect to the proportion and greatness of the same parish [or*] parishes, to be nominated yearly in Easter week, or within one month after Easter (*e*), under the hand and seal of two or more justices of the peace in the same county (*f*), whereof one to be of the quorum, dwelling in or near the same parish or division where the same parish doth lie, shall be called overseers of the poor of the same parish (*g*), and they, or the greater part of them shall take order from time to time, by and with the consent of two or more such justices of peace as is aforesaid (*h*), for setting to work of the children of all such whose parents shall not by the said churchwardens and overseers, or the greater part of them, be thought able to keep and maintain their children; and also for setting to work all such persons, married or unmarried, having no means to maintain them, use no ordinary and daily trade of life to get their living by: and also to raise weekly or otherwise, by taxation of every inhabitant, parson, vicar and other, and of every occupier of lands, houses,

Church-wardens and others shall be yearly named overseers of the poor;

to set poor children, &c. to work;

and to raise a stock for that purpose;

(*a*) This Act was continued by 2 Jac. 1, c. 25; 2 Jac. 1, c. 28; 3 Car. 1, c. 4, and made perpetual by 16 Car. c. 4.

(*b*) See 5 & 6 Will. 4, c. 62, s. 9; 29 & 30 Vict. c. 113, s. 12.

(*c*) See 17 Geo. 2, c. 38, s. 15; 14 Car. 2, c. 12, ss. 21, 22; and 59 Geo. 3, c. 95.

(*d*) See 12 & 13 Vict. c. 103, s. 6; 13 & 14 Vict. c. 101, s. 6; 20 Vict. c. 19, ss. 1, 2; 29 & 30 Vict. c. 66,

s. 4; 29 & 30 Vict. c. 113, s. 11; and 31 & 32 Vict. c. 122, s. 27.

* "and" in original.

(*e*) See 54 Geo. 3, c. 91.

(*f*) See 12 Vict. c. 8, s. 1; and 12 & 13 Vict. c. 64.

(*g*) See 17 Geo. 2, c. 38, s. 15; 18 Geo. 2, c. 15, s. 10; 59 Geo. 3, c. 12, ss. 6, 35; 7 & 8 Vict. c. 101, s. 22; 20 Vict. c. 19, s. 1; 29 & 30 Vict. c. 113, ss. 10, 11.

(*h*) See 32 & 33 Vict. c. 4, ss. 17, 18.

tithes impropriate or propriations of tithes, coal-mines, or saleable underwoods, in the said parish, in such competent sum and sums of money as they shall think fit, a convenient stock of flax, hemp, wool, thread, iron, and other necessary ware and stuff, to set the poor on work (*i*): and also competent sums of money for and towards the necessary relief of the lame, impotent, old, blind and such other among them, being poor and not able to work, and also for the putting out of such children to be apprentices, to be gathered out of the same parish, according to the ability of the same parish, and to do and execute all other things, as well for the disposing of the said stock as otherwise concerning the premises as to them shall seem convenient (*k*): which said churchwardens and overseers so to be nominated, or such of them as shall not be let by sickness or other just excuse, to be allowed by two such justices of peace or more as is aforesaid (*l*), shall meet together at the least once every month in the church of the said parish, upon the Sunday in the afternoon after divine service, there to consider of some good course to be taken, and of some meet order to be set down in the premises; and shall within four days after the end of their year, and after other overseers nominated as aforesaid, make and yield up to such two justices of peace as is aforesaid, a true and perfect account (*m*) of all sums of money by them received, or rated and sessed and not received, and also of such stock as shall be in their hands, or in the hands of any of the poor to work, and of all other things concerning their said office; and such sum or sums of money as shall be in their hands shall pay and deliver over to the said churchwardens and overseers newly nominated and appointed as aforesaid; upon pain that every one of them absenting themselves without lawful cause as is aforesaid, from such monthly meeting for the purpose aforesaid, or being negligent in their office, or in the execution of the orders aforesaid, being made by and with the assent of the said justices of peace, or any two of them before mentioned, to forfeit for every such default of absence or negligence twenty shillings (*n*).

and money for relief of impotent poor; and for apprenticing children;

Shall meet monthly;

and shall account yearly, and pay over balance in hand:

Penalty for absence or neglect, 20s.

(*i*) See 17 Geo. 2, c. 37; 3 & 4 Will. 4. c. 30; 32 & 33 Vict. c. 40; 6 & 7 Will. 4, c. 96; 3 & 4 Vict. c. 89; 4 & 5 Vict. c. 48; 6 & 7 Vict. c. 36; 13 & 14 Vict. c. 99, and the subsequent annual Acts exempting stock in trade from being rated to the poor rate.

(*l*) See 12 & 13 Vict. c. 8, and 12 & 13 Vict. c. 64.
(*m*) See 17 Geo. 2, c. 38; 50 Geo. 3, c. 49, and 4 & 5 Will. 4, c. 76, s. 47.

(*n*) See 17 Geo. 2, c. 38, s. 14, and 33 Geo. 3, c. 55; 4 & 5 Will. 4, c. 76, s. 95.

(*k*) See 4 & 5 Will. 4, c. 76, s. 54.

FOR WHAT PLACES OVERSEERS ARE APPOINTED.

Decisions on sect. 1.

Separate overseers shall be appointed for an ancient village used and reputed as a parish before and at the time of 43 Eliz. c. 2, although it be parcel of another parish which was an ancient rectory: *Hilton v. Pawle*, Cro. Car. 92; 2 Bl. Rep. 246.

Separate overseers shall be appointed for a place that previous to 43

FOR WHAT PLACES OVERSEERS ARE APPOINTED—*continued.**Decisions on
sect. 1.*

Eliz. c. 2, was a parish by reputation, although it was originally a vill to the adjacent parish: *Nicholas v. Walker*, Cro. Car. 394.

Overseers could not be appointed for a vill which had performed its parochial rites in the parish, although it had a chapel of its own before the 43 Eliz. c. 2, and had been separately rated to the poor subsequent to that Act: *Rudd v. Foster*, 4 Mod. 157.

An appointment of overseers for a precinct, under 43 Eliz. c. 2, s. 1, is void: *Rex v. Severn and Arnold*, Sayer, 278.

But overseers might be appointed for extra-parochial places that were villis. (See now 7 & 8 Vict. c. 101, s. 22, and 20 Vict. c. 19, s. 1.): *Rex v. Rufford*, 1 Str. 512; S. C. Fort. 321; 1 Str. 510.

Justices ought not to appoint overseers for separate parts of a parish unless it be necessary (but now see 7 & 8 Vict. c. 101, s. 22): *Rex v. Middlesex JJ.*, Bott.; S. C. Sayer, 148.

A *mandamus* was granted to appoint overseers for a hamlet where there were never any before: *Rex v. Westmorland JJ.*, 1 Wils. 138.

An extra-parochial place which consisted of only two houses was not to be considered a township or vill: *Rex v. Denham*, 2 Burr. S. C. 35; Str. 1040; 2 Sess. Ca. 250; Foley, 14; Cald. 169.

A nobleman's seat in an extra-parochial place, converted into five farms, was held not to be a vill: *Rex v. Grafton*, 2 Burr. S. C. 101; Str. 1071.

Overseers could not be appointed in a place which has never yet been considered as a separate vill in respect of the poor, unless there be a competent number of substantial householders: *Rex v. Showler*, 1 W. Bl. 419; 3 Burr. 1391.

An appointment of overseers for part of a parish is bad: *Plant v. Westgarth*, 3 Burr. 1610.

An order, appointing overseers for the divisions of a large parish able to reap the benefits of 43 Eliz. c. 2, is a nullity: *Peart v. Westgarth*, 3 Burr. 1610; *Rex v. Bedding*, Cald. 99; *Rex v. Watson*, 5 East, 480.

Where a parish is divided into separate townships, which have separate overseers, each township with respect to its poor is to be considered as a distinct parish within the meaning of 13 & 14 Car. 2, c. 12: *Rex v. Kirkby Stephen*, Burr. S. C. 664.

Separate overseers were not to be appointed for a hamlet situate within a parish, although it consisted only of one house, and had never been rated to the poor rate: *Rex v. Tamworth*, Cald. 28.

An appointment of separate overseers for sub-divisions of a parish cannot be supported, unless it expressly appear that the parish could not otherwise reap the benefit of 43 Eliz. c. 2: *Rex v. Uttoxeter*, 1 Doug. 346; Cald. 84.

The place must have appeared to be a vill before the court would order separate overseers to be appointed: *Rex v. Bedfordshire JJ.*, Cald. 167; 2 Salk. 486; 3 Salk. 99; 2 Str. 1004, 1071; Burr. S. C. 35, 101.

Separate overseers could not be appointed for the sites and areas of ancient cathedrals, colleges and inns of court: *Rex v. Peterborough JJ.*, Cald. 238.

Where it is doubtful whether a place is legally and actually a vill, it is enough to justify an appointment of overseers, that the sessions return it to be such by reputation: *Rex v. Eyford*, 4 Doug. 331; Cald. 542.

Where a parish consists of several townships, some of which maintain their own poor, and has had more than four overseers, it cannot have the benefit of the 43 Eliz. c. 2, and each township is entitled to have separate overseers: *Rex v. Horton*, 1 T. R. 374; *Bostock v. Ridgway*, 9 D. & R. 585; 6 B. & C. 496.

FOR WHAT PLACES OVERSEERS ARE APPOINTED—*continued*.

*Decisions on
sect. 1.*

If a place were found to be a vill, the appointment of separate overseers was of course: *Rex v. Ronton Abbey*, 2 T. R. 207,

Where a township had for sixty or seventy years had separate overseers and maintained its own poor separately from the parish at large, it was held that it was still entitled to the same privilege: *Rex v. Leigh*, 3 T. R. 746.

Where a parish consisted of two separate districts, each of which made a separate rate, but the money when raised was blended in one joint fund, though applied in certain proportions, and the sessions did not find it as a fact that the parish could not reap the benefit of 43 Eliz. c. 2, it was held that the districts were not entitled to maintain their own poor separately and distinctly, though since 1648 they had constantly had in the whole more than four overseers, and though the hamlet part had immemorially had a constable of its own: *Rex v. Newell*, 4 T. R. 266; *Bittins v. Parr*, Loft. 276.

A hamlet and a vill are synonymous: *Rex v. Morris*, 4 T. R. 550.

Whether or not a parish can have the benefit of the Act with not more than four overseers is a fact which the sessions ought to find, and not leave it to be presumed by the court: *Rex v. Watson*, 7 East, 214; 3 Smith, 283.

It was competent to the parishioners in 1773 to cease acting under 13 & 14 Car. 2, c. 12, and to recur to the general provisions of 43 Eliz. c. 2; and the court refused a *mandamus* to appoint separate overseers: *Rex v. Palmer*, 8 East, 416.

The court will not go into the question upon affidavit whether a place be a township or vill, but will quash the appointment of overseers for it, if it be not stated to be such: *Rex v. Standard Hill*, 4 M. & S. 378.

Where a parish contained within itself a borough not co-extensive with it, and the mayor of the borough in a return to a *mandamus* to allow a poor rate made by the churchwardens and overseers of the whole parish, stated a custom which had existed since the 43 Eliz. c. 2, of appointing separate churchwardens and overseers, and of making separate rates for the borough and for those parts of the parish which lay without the borough, it was held that such custom was invalid: *Rex v. Gordon*, 1 B. & Ald. 524.

If a parish could not reap the benefit of 43 Eliz. c. 2, and agreed to sever in maintaining the poor, the severance was valid, and an appointment of overseers for the whole parish could not afterwards be made: *Rex v. Walsall*, 2 B. & Ald. 157; *Lane v. Cobham*, 7 East, 1; 3 Smith, 1.

The Foundling Hospital is not extra-parochial. Where a woman left a parcel containing a child at the hospital, but went away before the contents of the parcel were ascertained, and the governors refused to receive the child, it was held that the parish in which the ambit of the hospital is, was bound to maintain the child as casual poor: *Ex parte The Foundling Hospital*, 5 Dowl. 722; *S. C. Reg. v. St. Pancras*, 7 A. & E. 750.

Two neighbouring divisions of a parish used the same parish church (situated in one of them), but each had its own overseers, constables, &c. Poor rates were made for the whole district, consisting of the two divisions, but were raised by each division separately, and one division always contributed in the proportion of two-thirds, and the other of one-third. The two divisions, as far back as could be traced, relieved their poor jointly and indiscriminately, and they had for forty years a joint workhouse. The residue of the parish consisted of five chapelries, each having its own chapel and parish officers, and maintaining its own poor. The court, on a special case, considering the five chapelries to be independent districts for the maintenance of their poor, and that P., one of the neighbouring districts, was not within 13 & 14 Car 2, c. 12, s. 21, and could have the benefit of 43 Eliz.

FOR WHAT PLACES OVERSEERS ARE APPOINTED—*continued*.

c. 2, s. 1, the use of a joint workhouse and the raising a joint fund (though *Decisions on* in different proportions), being decisive on this point: *Price v. Quarrell*, *sect. 1*.
 12 A. & E. 35, 784; S. C. *Reg. v. Worcestershire JJ.*, 11 L. J. M. C. 129;
 3 P. & D., 434, 465.

Norwich is a city "maintaining its own poor," and therefore a parish within 4 & 5 Will. 4, c. 76, s. 109: *Reg. v. Fornsett, St. Mary, Norwich*, 12 Q. B. 160; 18 L. J. M. C. 125.

The fact of a district paying tithes to a particular parish is strong but not conclusive evidence to show that the district is in that parish, and not a separate parish of itself: *Reg. v. Clayton*, 13 Q. B. 362; 18 L. J. M. C. 129; 13 J. P. 166.

The question whether a place is a parish or not is not properly triable in a spiritual court: *Duke of Rutland v. Bagshawe*, 19 L. J. Q. B. 234.

Where a district had always been treated as one poor law and highway parish, but there was evidence that there had formerly been two churches and two rectories, and for most ecclesiastical purposes the district had been treated as two parishes, the court held that the district was still to be treated as one poor law parish, it having been, at all events, a reputed parish at the time of the passing of the 43 Eliz, c. 2: *Reg. v. Sharpley*, 23 L. T. 172; S. C. *Sharpley v. Mablethorpe*, 24 L. J. (N. S.) M. C. 35; 3 E. & B. 906; 18 J. P. 313.

Where it is doubtful whether a cathedral existed before or after the institution of civil parishes, which, according to Lord Coke, C. J., was in 1189, the presumption is, that the cathedral and precincts were from the first extra-parochial: *Braithwaite v. Hooke*, 26 J. P. 660.

It is a question of evidence whether two places are distinct and separate parishes, and therefore entitled to have overseers separately appointed for each: *Reg. v. Tombleson*, 27 J. P. 150.

There is no legal objection to the inference that a hamlet or township once extended into two parishes, and that it afterwards became annexed to the one parish for ecclesiastical purposes, and continued to form part of the other parish for civil purposes: *Reg. v. Watson*, 37 L. J. M. C.; 18 L. T. (N. S.) 556.

BOUNDARY OF PARISH.

The determination of commissioners under an Inclosure Act, as to the boundaries of a parish to be inclosed, is not conclusive of the fact as to what were the boundaries antecedently to such determination, so as to affect the settlement of a pauper: *Rex v. St. Mary, Bury St. Edmund's*, 4 B. & Ald. 462.

The boundaries of a parish, fixed by commissioners under a private Inclosure Act, are not binding when the commissioners do not comply with the Act: *Rex v. Washbrook*, 4 B. & C. 732.

The perambulation of parish boundaries must be on the line of boundary of the parish, and the parishioners cannot claim to pass through a house unless it stands on the boundary, and no custom can be pleaded in justification of their having done so. *Per* Lord Denman, C. J.: The right to perambulate parochial boundaries, to enter private property for that purpose, and to remove obstructions that might prevent this from being done, cannot be disputed. It prevails, as a notorious custom, in all parts of England, is recorded by all our text writers, and has been confirmed by high judicial sanction. Lord C. J. Anderson, and the whole Court of Common Pleas, assert in the most unqualified manner the custom and the right in *Goodday v. Michell* (Cro. Eliz. 441; S. C. Owen, 71 Co. Ent. 650 b, Trespass, pl. 5), the pleadings in which are to be found in Coke's Entries, 651 b: *Taylor v. Devey*, 7 A. & E. 409.

BOUNDARY OF PARISH—*continued*.

*Decisions on
sect. 1.*

On an issue respecting the boundary of a parish and county, an award in a suit *inter alias*, in which the arbitrator set out the boundary so proved before him, and a verdict was entered according to his direction, is not admissible in evidence of such boundary: *Evans v. Rees*, 10 A. & E. 151.

The sea shore is, *primâ facie*, extra parochial: *Reg v. Musson*, 8 E. & B. 900; 27 L. J. (N. S.) M. C. 100; 4 Jur. (N. S.) 111; 23 J. P. 757.

The occupier of a farm, of which a certain number of acres are in parish A., and the residue in parish B., is properly rated in parish A., as the occupier of the number of acres in that parish, although the specific acres in either parish are not known. The sessions were not bound to determine the particular portion which was within parish A.: *Reg. v. Woods*, 23 J. P. 36; 31 L. T. 179; 27 L. J. M. C. 289; 4 Jur. (N. S.) 1233; 1 E. B. & E. 481.

Where the sea shore forms the boundary of a parish, the portion of the shore between the highwater mark of ordinary spring tides and that of the medium tides is within the limits of the parish: *Reg. v. Gee*, 1 E. & E. 1068.

If the parish be bounded by a river the presumption is that the parish extends to the middle of the river; in beating the boundaries, walking along the shore may be sufficient in such case: *McCann v. Sinclair*, 33 L. T. 221; 28 L. J. M. C. 247; 5 Jur. (N. S.) 1302.

A parliamentary survey, made in 1652 (during the Commonwealth), in which a place was described as forming a separate tything, is good evidence of reputation, whether the survey be considered as made by competent authority or not: *Freeman v. Read*, 32 L. J. M. C. 227; 10 Jur. (N. S.) 149.

Where the boundary between two conterminous parishes is a highway, the presumption is that half the highway on either side of the *medium flum* belongs to the parish on that side: *Reg. v. Strand Board of Works*, 33 L. J. M. C. 33; 9 L. T. (N. S.) 374.

Where a parish extends up to a tidal river, but there is nothing to show whether it does or does not extend beyond the line of ordinary or medium high water mark, land between such high water mark and low water mark, cannot be assumed to be within the parish, as there is no distinction in this respect between land on the sea shore and land on the shore of a tidal river: *Bridgwater Trustees, apps., Bootle-cum-Linacre, resps.*, L. R. 2 Q. B. 4; 15 L. T. (N. S.) 351; 36 L. J. Q. B. 41; 7 B. & S. 348.

FORM OF APPOINTMENT OF OVERSEERS.

The appointment need not state that the persons are appointed overseers together with the churchwardens: *Rex v. Searle, Bott*.

One appointment out of two or more made on the same day may be good: *Rex v. Searle, Bott*.

The appointment must state the county in which the parish is situated: *Rex v. Houlditch, Bott*.

The appointment must state that the persons appointed are substantial householders: *Rex v. Shermingbrooke*, 2 Ld. Raym. 1394; S. P. *Rex v. Flag, Foley*, 8; *Rex v. Marlow, Foley*, 5; *Rex v. Weobly*, 2 Str. 1261.

Overseers must be appointed *eo nomine*: *Rex v. St. George*, 1 Fort. 320.

The appointment need not state the justices to be justices of the division: *Rex v. Sparrow*, 2 Sess. Ca. 140.

An order appointing overseers in obedience to a *mandamus*, though made a month after Easter, is good: *Rex v. Sparrow*, Str. 1123; 2 Sess. Ca. 140.

FORM OF APPOINTMENT OF OVERSEERS—*continued*.

An appointment of overseers must expressly state that under 43 Eliz. *Decisions on* c. 2, the place for which the appointment is made is a parish: *Rex v. sect. 1. Severn*, 2 Sayer's Rep. 278.

When there were two appointments made on the same day, but it did not appear which of them had the priority, a third made on the following day was good, and the others void for uncertainty: *Anon. Loft*. 372.

The words "substantial householders" are to be relatively taken; and persons, though poor, may be appointed if there are no opulent householders in the parish: *Rex v. Stubbs*, 2 T. R. 406.

The appointment may be good without being in writing: *Anon. Loft*. 434; *Rex v. Walsall*, 2 B. & Ald. 157.

An order appointing A. a substantial householder of the parish of B. to be overseer for the *hamlet* of C. in the said parish, is good: *Rex v. Morris*, 4 T. R. 550.

The court will not grant a *mandamus* to overseers to produce their appointment for the inspection of a rated inhabitant; the defect suggested in the appointment being properly the subject of an appeal to the sessions: *Reg. v. Harrison*, 16 L. J. M. C. 33.

The justices are not bound to appoint as overseers nominees of the vestry of the parish: *Reg. v. Lancashire JJ.*, 29 L. J. (N. S.) M. C. 244; *S. C. Reg. v. Hoole*, 2 L. T. (N. S.) 472; 24 J. P. 438.

PERSONS LIABLE TO BE APPOINTED OVERSEERS.

The President and members of the College of Physicians are not eligible for the office of overseer. (32 Hen. 8, c. 40.)

An attorney or practising barrister is exempt from being appointed a parish officer: *Rex v. Prouse*, Cro. Car. 389; *Gerard's case*, 2 W. Bl. 1123; *Rex v. Pordage*, 2 Keb. 578; 1 Mod. 22; 1 Sid. 431.

Aldermen of London, being justices of the peace, are exempt from being appointed overseers: *Rex v. Abdy*, Cro. Car. 585; 1 Bott. 8.

A clergyman, though without cure of souls, is privileged from being overseer: 6 Mod. 140.

A Baptist preacher, qualified according to 1 Wm. & M., c. 18, is exempt from serving parish offices, even though he be also engaged in trade: *Kenward v. Knowles*, Willes, 463.

Persons only occasionally resident in the parish ought not to be appointed overseers: *Rex v. Moor*, Carth. 161.

An acting justice of the peace and a lieutenant of marines are not compellable to serve as overseers where there are other sufficient persons within the parish: *Rex v. Gayer*, 1 Burr. 245; Cald. 241; Ld. Ken. 492; Burr. S. C. 57.

Per Lord Kenyon: In the case of *Rex v. Gayer*, it seemed to be agreed that the office of a justice of the peace and overseer are incompatible, because the accounts of the overseer are subject to the control of the justice: *Rex v. Pateman*, 2 T. R. 779.

Where a district contains only three houses, inhabitants from all three may be appointed overseers, though two of them are labourers and poor: *Rex v. Stubbs*, 2 T. R. 395.

A woman may be appointed an overseer, for there is nothing in the nature of the office to render women incompetent: *Rex v. Stubbs*, 2 T. R. 395.

It is improper to appoint a woman as overseer when there are other persons who are more competent to serve the office: *Rex v. Chardstock*, 16 Vin. Abr. 415.

PERSONS LIABLE TO BE APPOINTED OVERSEERS—*continued*.

*Decisions on
sect. 1.*

An officer of the customs is exempted from serving as overseer though he has not the writ of privilege at the time: *Rex v. Warner*, 8 T. R. 375

Tidewaiters and other revenue officers are privileged from serving the office of overseer: *Raymond v. St. Botolph, Aldgate*, 2 Chan. Rep. 196.

A partner in a firm occupying premises for business purposes, though he does not reside there, is a householder within 43 Eliz. c. 2, and is liable to serve as overseer: *Rex v. Poynder*, 1 B. & C. 178; 2 D. & R. 258.

The clerk of the treasury of the Court of Common Pleas is not compellable to serve the office of overseer: *Ex parte Jefferies*, 6 Bing. 195; 3 M. & P. 450.

A rule for a *mandamus* to churchwardens to swear in overseers of the poor under a local Act was granted absolute in the first instance: *Reg. v. Manchester*, 7 Dowl. Rep. 707.

If one claiming to be exempt from serving the office of overseer do not appeal to the sessions against the appointment, he is a good overseer notwithstanding: *Reg. v. Cheshire JJ.*, 8 Dowl. 618.

Where it is a question whether a person appointed an overseer is a householder the court will not grant a *certiorari* to bring up the order of justices appointing him, for the purpose of quashing it. The objection is one which must be taken at the quarter sessions on appeal against the appointment: *re Pudding Norton*, 33 L. J. (N. S.) M. C. 136; 10 L. T. (N. S.) 386.

A man cannot be said to be a substantial householder who has not an independent occupation. If the person appointed as overseer occupies a house as incidental to his service he is not a substantial householder. But if the occupation is not necessary to the service, then the mere fact that by some agreement between him and his master the occupation is treated as part of the remuneration will not render the occupation less that of a tenant just as if he paid rent: *Reg. v. Spurrell*, 29 J. P. 742; 13 L. T. (N. S.) 364; 13 Jur. (N. S.) 208; 35 L. (N. S.) M. C. 74.

BY WHOM OVERSEERS ARE TO BE APPOINTED.

Overseers must be appointed under the hands and seals of two justices: *Rex v. Arnold*, Str. 101; Foley, 16; 1 Sess. Ca. 141.

Overseers cannot be appointed by the sessions; *Rex v. Flag*, Foley, 8; 1 Sess. Ca. 324; *Rex v. Great Marlow*, Foley 5; nor by the mayor of a corporation and a justice of the county; but if there be only one justice in the county, perhaps he may appoint: *Rex v. Butler*, 1 W. Bl. 649

Where a statute empowers two justices to execute a judicial act they must meet and execute it together. Therefore an appointment of overseers signed by two justices separately is bad: *Rex v. Forrest*, 3 T. R. 38; Plow. 293; Salk. 73, 478, 568.

The two justices must sign and seal the appointment in the presence of each other, and at the very time the appointment is made: *Rex v. Great Marlow*, 2 East, 244.

The appointment of overseers should not be made by a minority of the justices assembled without opportunity of deliberation afforded to the entire body: *Penney v. Slade*, 5 Bing. N. C. 319.

County justices have jurisdiction to appoint overseers for a parish comprised in a borough under 5 & 6 Will. 4, c. 76, where there is no separate court of quarter sessions; and they may make such appointment at their own petty sessions for the division in which such parish is included: *Pember v. Evans*, 21 J. P. 438.

NUMBER OF OVERSEERS TO BE APPOINTED.

An order appointing five overseers for the same parish is bad: *Rex v. Decisions on Harman*, Foley, 202; 2 Sess. Ca. 201; Andr. 343. sect. 1.

The court will not quash an order appointing one overseer, especially if it do not appear that others were not appointed by other orders: *Rex v. Besland*, 1 Wils. 128; 1 Burr. 445.

Not more than four overseers can be appointed in a parish, unless it be divided into two or more divisions or townships: *Rex v. Loxdale*, 1 Burr. 445; Doug. 349.

The four, three, or two overseers, may be each of them appointed at different times, and by different instruments: *Rex v. Morris*, 4 T. R. 550.,

An appointment of one overseer alone for a township is bad in law 13 & 14 Car. 2, c. 12, requires at least two: *Rex v. Clifton*, 2 East, 168.

An Indenture of apprenticeship made in 1797, was signed by one overseer only, and the respondent, to show that one only had been appointed in that year, called upon the appellants to produce the original appointment; but it not having been produced, and the respondents not having taken any means to procure the testimony of the overseer himself, were not entitled to give secondary evidence of the contents of the appointment: *Rex v. Stoke Golding*, 1 B. & Ald. 173.

Where two divisions of a parish had separate overseers and separate rates, and managed their own poor separately, but at the end of the year if there was a balance in the hands of one set of overseers, they paid it over to the other set, this was held to be one joint account, and all the overseers joint overseers of the parish: *Malkin v. Vickerstaff*, 3 B. & Ald. 89.

There may be an appointment of four overseers, though a local Act only directs that two shall be appointed: *Rex v. Pinney*, 2 B. & C. 322; 2 D. & R. 578.

In order to constitute a body corporate under 59 Geo. 3, c. 12, s. 17, there must be two overseers and a churchwarden or churchwardens: *Woodcock v. Gibson*, 4 B. & C 462.

The appointment of one overseer (if it be intended as a sole appointment) is bad, notwithstanding that the parish contains but one inhabitant householder; the section requiring the appointment of at least two householders. (But now see 29 & 30 Vict. c. 113, s. 11): *Reg. v. Cousins*, 10 Jur. (N.S.) 722; 33 L. J. (N.S.) M. C. 87; 9 L. T. (N.S.) 686; 28 J. P. 278; 4 B. & S. 849.

AT AND FOR WHAT TIME OVERSEERS ARE APPOINTED.

One appointment out of two or more made on the same day may be good: *Rex v. Searle*, Bott.

Overseers may be appointed on a Sunday: *Rex v. Clerkenwell*, Foley, 4.

An order appointing overseers in obedience to a *mandamus*, although made above a month after Easter, is good: *Rex v. Sparrow*, Str. 1123; 2 Sess. Ca. 140; Salk. 626; 1 Str. 387.

The appointment of an overseer may be for a whole year, though the year might expire before the time came for appointing new overseers: *Rex v. Jones*, Bott.; S. C. Foley, 11; 1 Sess. Ca. 42; 7 Mod. 410.

An order made on Easter Wednesday appointing overseers is good; it will be for the overseers' year, Easter to Easter: *Rex v. Helling*, 3 Burr. 1904.

The appointment of overseers on Easter Sunday is *primâ facie* clandestine and bad: *Rex v. Butler*, 1 W. Bl. 649.

But an appointment made *bonâ fide* and without collusion on a Sunday is good: *Rex v. Bridgwater JJ.*, Bott.

It is however not a proper day for making the appointment: *Rex v. Bridgwater*, Cowp. 139; *Anon.* Loft. 618.

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AT AND FOR WHAT TIME OVERSEERS ARE APPOINTED—*continued.*

An appointment of overseers, dated in October for a year next ensuing the date is good, for the overseers' year of office shall be understood: *Rex v. Stubbs*, 2 T. R. 395; *Rex v. Burder*, 4 T. R. 778.

The justices having made the appointment are *functi officio*, and no other justices can afterwards on a claim of one to be exempted appoint another: *Rex v. Great Marlow*, 2 East, 244.

As to the time fixed by a statute for an act to be done being directory: See *Rex v. Norwich*, *Mayor of*, 1 B. & Ad. 310.

If a statute directs that overseers shall be appointed "for the term of three years then next ensuing," *semble*, an appointment "for the space of three years next ensuing the date hereof, or until other overseers shall be appointed" is bad: *Bristol v. Wait*, 6 C. & P. 591.

APPEAL AGAINST APPOINTMENT OF OVERSEERS.

An appointment of overseers may be removed before an appeal to sessions, for the rule laid down in Salk. 147, extends only to the case where there is a limited time for appealing at the next quarter sessions; but 43 Eliz. c. 2, is not so restrained; consequently it can never be said that the time for appealing is out. If an appeal from an appointment be lodged, there can be no *certiorari* till the sessions has made a determination, and a *certiorari* brought pending such appeal shall be superseded: case of *The Borough of Warwick*, 2 Str. 991.

It was however holden that a *certiorari* lay to remove an order appointing overseers, although 43 Eliz. c. 2, s. 6, gives an appeal, and no appeal had been made: *Rex v. Harman*, Andr. 343; *S. P. Rex v. Stanley*, Cald. 172.

But an appointment cannot be confirmed on a *certiorari* until after the next sessions, as that would take away the right of appeal: *Rex v. Houlditch*, Bott.

A *quo warranto* information does not lie against a churchwarden or overseer; *Rex v. Daubney*, Bott.

To state upon an appeal that those against whose acts the appellant complains are justices, is so far an admission of jurisdiction: *Rex v. Flisher*; *Rex v. Towill*, Cald. 135.

The court will not quash an appointment of overseers after the third year has expired: *Rex v. Butler*, 1 W. Bl. 649.

Parishioners as well as overseers may appeal against appointment of overseers: *Rex v. Forrest*, 5 T. R. 58.

A person properly appointed overseer must appeal and procure his discharge; but on *certiorari* the facts may be disclosed to the court by affidavit: *Rex v. Great Marlow*, 2 East, 244.

An appointment by two justices of overseers may be removed by *certiorari*, without appealing against it to the quarter sessions, and the court will go into the question upon affidavit, whether the place for which the appointment is made be a township or vill; and if it appear by the affidavits that it is not, and be not stated to be such, or that it is represented to be such, the court will quash the appointment: *Rex v. Standard Hill*, 4 M. & S. 378.

Where a parish contained within itself a borough not so co-extensive with it, and the mayor of the borough on a return to a *mandamus* for allowing a poor rate made by the churchwardens and overseers of the whole parish, stated a custom which had existed since 43 Eliz. c. 2, of appointing separate churchwardens and overseers, and making separate rates for the borough and for those parts of the parish which lay without the borough, it was holden that such custom was invalid, and the return was quashed accordingly: *Rex v. Gordon*, 1 B. & Ald. 524.

APPEAL AGAINST APPOINTMENT OF OVERSEERS—*continued.*

Now, where an appeal lies against an appointment by justices, the appointment cannot be removed by *certiorari* for the purpose of being quashed: *Decisions on Rex v. St. Alban's JJ.*, 3 B. & C. 698; 5 D. & R. 538. *sect. 1.*

A notice of an application for a *certiorari* to remove an order appointing overseers, signed "E. L., assistant overseer," and not stating who were the parties making it, is bad. An affidavit of service of such a notice shall specify not only the names of the individuals served, but that they were the parties by or upon whom the order was made: *Reg. v. Shrewsbury and Salop JJ.*, 10 L. J. M. C. 8.

EVIDENCE OF APPOINTMENT OF OVERSEERS.

No parol evidence can be given of an appointment of overseers: *Rex v. Arnold*, Str. 101; 1 Sess. Ca. 141.

Respondents in an appeal not having taken any means to procure the testimony of an overseer as to his appointment (who must be presumed to have the custody of the original appointment) were not entitled to give secondary evidence of its contents: *Rex v. Stoke Golding*, 1 B. & Ald. 173.

The court will not grant a *mandamus* to overseers to produce the appointment for the inspection of a rated inhabitant, the defect suggested being the subject of appeal: *Reg. v. Harman*, 16 L. J. M. C. 33; 9 Q. B. 794; 10 J. P. 771.

CHURCHWARDENS.

All Peers of the realm by reason of their dignity; all clergymen by reason of their order; all Parliament rulers by reason of their privilege, are exempted from the office of churchwarden: *Gibson's Codex*, 215.

Churchwardens are a corporation by law, and the overseers may maintain an action against them for the good of the parish; they are temporal officers by law, and intrusted with the goods of the parish, therefore the parish are fittest to have the choice and approbation of them: *Rex v. Rice*, Comb. 417.

No fee is demandable from the churchwardens for swearing them except by custom: *Goslin v. Ellison*, Salk. 330.

Churchwardens, during their continuance in office, could not (previous to 29 & 30 Vict. c. 113, s. 12,) be appointed overseers of the same parish: *Rex v. All Saint's, Derby*, 13 East, 143.

Two churchwardens are not absolutely required in every parish for the management of the poor: *Rex v. East Shilton*, 1 B. & Ald. 275.

By custom there may be only one churchwarden in a parish: *Rex v. Catesby*, 2 B. & C. 814.

In a township which is independent of the mother parish in all respects except paying annually towards the repair of the parish church, the churchwardens of the township are not, by virtue of their office, overseers of the poor: *Rex v. York N. R. JJ.*, 6 A. & E. 863; 2 N. & P. 103; 6 L. J. M. C. 110.

Quo warranto does not lie for the office of churchwarden, a *mandamus* is the proper process to question the validity of an appointment which has been made: re *Barlow*, 5 L. T. (N. S.) 289.

A churchwarden whose year of office has expired, continues in office, where his successor has been elected, but has not been sworn, nor has made the substituted declaration, nor has done any act which would make him churchwarden *de facto*: *Bray v. Somer*, 31 L. J. (N. S.) M. C. 135; 2 B. & S. 374; See also *Rex v. Marsh*, 5 A. & E. 468.

A churchwarden who has made the declaration required by 5 & 6 Will. 4, c. 62, s. 9, in a preceding year, and continues in office without renewing

CHURCHWARDENS—continued.

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the declaration though compellable to do so, may do legal acts by virtue of his office which will be binding upon himself and the parishioners: *Edney v. Smallbones*, 21 L. T. (N. S.) 506.

Contiguous portions of parishes, B. & S. were formed into a consolidated chapelry for all ecclesiastical purposes, and assigned to the consecrated church of St. J.—Held that those ratepayers residing within that part of the parish of B. lying within the consolidated chapelry, had a right to vote in the election of churchwardens for the ancient parish of B: *Newman v. King*, 34 J. P. 358.

Fees payable on the visitation of the archdeacon are not a personal charge on the churchwardens; and there is no implied contract to pay them if the churchwardens have no funds applicable to the payment of the fees: *Veley v. Pertwee*, 39 L. J. Q. B. 195; 34 J. P. 421. See also *Shepherd v. Payne*, 33 L. J. C. P. 158.

DUTIES AND LIABILITIES OF OVERSEERS.

Where a statute directs the doing of a thing for the sake of justice or the public good, the word “may” is the same as the word “shall.” Therefore it was held that overseers were indictable for not making a rate to reimburse the constable: *Rex v. Barlow*, Salk. 609.

Overseers are indictable for not relieving the poor or for doing so unnecessarily: *Tarney's Case*, Bott. 1013.

The court will not grant an information against overseers for procuring a marriage of a pauper with a view to burthen another parish: *Rex v. Compton*, Cald. 246.

A conspiracy of parish officers to marry a female pauper settled in their parish to a pauper settled in another parish, in order to bring a charge on the latter is indictable, but the indictment must aver that the parties were legally settled in their respective parishes; for saying that they were inhabitants only is not sufficient: *Rex v. Edwards*, 8 Mod. 321; 1 Salk. 174; 2 Id. Raym. 1167. But persuading a male pauper settled in one parish to marry a female pauper settled in another, is not indictable: *Rex v. Seward*, 1 A. & E. 706.

The court will grant an injunction against an overseer forcibly removing a poor woman near her time for delivery to another parish to avoid the expense she might occasion to their parish if the child should be born there: *Rex v. Busby*, Bott.

Indictment lies for refusing to accept the office of overseer or disobedience to an order of justices, or to an Act of parliament: *Rex v. Jones*, 2 Str. 1146; 2 Sess. Ca. 153.

Overseers were indictable for not receiving a pauper sent to them under an order of justices: *Rex v. Davis*, Bott.; Sayer, 163.

A marriage, though procured by an overseer for the purpose of changing the settlement of a pauper is good: *Rex v. Tarrant*, Salk. 174.

The court will not quash an indictment against an overseer for not taking upon himself the office of overseer; but will compel him to his demurer: *Rex v. Pardy*, Cald. 432.

If on a dispute respecting a rate the matter be referred, and in the meantime the overseer borrows money for the relief of the poor, and make no rate to reimburse the money, the lender may recover it against him in an action for money had and received to his use: *Howe v. Keech*, Bott.

The court never quashes indictments for serious offences but upon the clearest and plainest grounds. In an indictment for criminal misconduct towards the poor, a general description of them, without setting out their names, seems sufficient: *Rex v. Wetherill*, Cald. 432.

An overseer proceeding through all the stages of an expensive litigation without the concurrence of the vestry, is personally liable (but see *Reg. v. Street*, *infra*): *Rex v. Mickfield*, Cald. 507.

A surgeon might, it was held, recover for attendance on a pauper on the

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credit of the overseer, without proving a promise in writing: *Lyde v. Higgins*, 1 Smith, 305. *Decisions on sect. 1.*

It was held that a servant whose limb was fractured by a fall when sitting on the shafts of his master's waggon, was a casual pauper in the parish in which he fell; and must be supported and cured at their expense, and not at that of his master: *Newby v. Wiltshire*, Cald. 527.

The law will not raise an implied promise in the parish where a pauper is settled to reimburse the money laid out by another parish in which he happened to be in providing necessary medical assistance for him: *Atkins v. Bannwell*, 2 East, 504.

Where a pauper met with an accident in parish W., and was conveyed to an adjoining parish E. and was confined there and visited by the overseer of E., and attended by the surgeon who attended the parish poor, with the knowledge of the overseer,—held that the overseer of E. was liable for the expenses of the cure, for there was not any obligation upon parish W. to pay the expenses, and the overseer knowing of and not repudiating the surgeon's attendance was equivalent to a request: *Lamb v. Bunce*, 4 M. & S. 275.

An overseer was held discharged by his bankruptcy and certificate from a debt due in respect of a sum in his hands as overseer at the time of the bankruptcy: *Rex v. Tucker*, 5 M. & S. 508; 2 Chit. 286. See also *Reg. v. Martin*, 19 L. T. (N. S.) 733; S. C. *Reg. v. Master*, 38 L. J. M. C. 73.

Parish officers are bound to take care of casual poor; and if a person not a parish officer take care of a person coming within that description, and for whom the parish officers would be liable to provide, Lord Eldon held that he had a right to recover against them the expenses incurred: *Simmons v. Wilmott*, 3 Esp. 91.

Where a pauper residing in A. received, during illness, a weekly allowance from parish B. where he was settled,—held that an apothecary who had attended the pauper may maintain an action for his bill against the overseer of B. who expressly promised to pay it: *Wring v. Mill*, 1 B. & Ald. 104.

Where a payment has been made at the sole request of one overseer without the knowledge of the others, and no demand is made upon them until they are out of office, it is for the judge to say, whether the person who paid the money ought not to be considered as having relied upon the sole responsibility of the overseer at whose request he paid it: *Malkin v. Vickerstaff*, 3 B. & Ald. 89.

One overseer may be ordered to reimburse another money expended by such other out of money already raised in the parish: *Rex v. Limehouse*, Foley, 22.

It was held to be the duty of overseers to endeavour to find work either in or out of their own parishes for ablebodied poor persons who were unable to obtain employment at their usual work; and *semble*, that it was only in the event of the former being unable to procure such employment that they are authorized in giving pecuniary relief: *Rex v. Collett*, 3 Dow. & Ry. 582; 2 B. & C. 324.

A person being casually in a parish having met with an accident, it was held that it was the duty of the officers of that parish to have taken the injured person to the nearest house in the same parish, and that they could not by removing him to another parish relieve themselves from the liability which the law had in the first instance cast upon them, and that they were therefore liable to pay the surgeon's bill: *Tomlinson v. Bentall*, 5 B. & C. 738.

The overseers of the parish of settlement were held not bound by law to provide medical aid for a pauper who had met with an accident in another parish. The obligation was primarily on the overseers of that parish: *Gent v. Tomkins*, 5 B. & C. 746, n.

An overseer has not power to borrow money for the use of the parish, and his surety is not liable for money so borrowed: *Leigh v. Taylor*, 7 B. & C. 491.

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If an overseer received from the putative father of a bastard child born within the parish, a sum of money as a composition with the parish for maintaining the child, he was liable to an indictment for fraudulently omitting to give credit for such sum in his accounts with the parish: *Rea v. Martin*, 2 Camp. 268.

Money lent to an overseer in that capacity cannot be recovered against several overseers, unless all have expressly promised to repay the money lent, for it is contrary to the duty of an overseer to borrow money for parish purposes: *Massey v. Knowles*, 3 Stark. 65.

A "Deputy" overseer, or even a mere stranger, directing a surgeon to attend a poor man is liable to pay the surgeon: *Watling v. Walters*, 1 C. & P. 132.

A pauper whose settlement was in A. removed to B., and whilst there received relief from A. which was afterwards discontinued, the overseers objecting to pay any more unless the pauper removed to A. The pauper was subsequently taken ill, and was attended by an apothecary, who after attending for nine weeks sent a letter to the overseers of A. upon receipt of which they directed the allowance of relief to be renewed, and it was continued till the pauper's death. Under these circumstances it was held that the overseers of A. were liable to pay so much of the apothecary's bill as was incurred after the letter was received: *Paynter v. Williams*, 1 Crompt. & Mee. 810.

If all the churchwardens and overseers join in an order for goods to be supplied to the poor, they are all jointly liable; and if an assistant overseer also join in such an order, he also will be jointly liable with the others: *Kirby v. Bannister*, 5 B. & Ad. 1069.

If one of two overseers incur a liability in ordering goods for the parish, it is for the jury to say whether credit was given to such overseer alone, or to the parish, so as to make both overseers liable: *Eaden v. Titchmarsh*, 1 A. & E. 691; 3 N. & M. 712.

An indictment did not lie for conspiring merely to exonerate one parish from the charge of a pauper, and to throw it upon another, nor for conspiring to cause a male pauper to marry a female pauper for that purpose, without threat, &c.: *Rea v. Seward*, 1 A. & E. 706; 3 N. & M. 557; 3 L. J. M. C. 103.

GENERALLY AS TO THE POOR RATE.

The poor of England till the time of Henry the Eighth subsisted entirely upon private benevolence and the charity of well disposed Christians; for although it appears by the *Mirroure* that it was ordained by the Great Council of the Kingdom, at some time before the reign of Edward the First, that the poor should be sustained by parsons, by rectors of the church, and by parishioners, so that none of them die for want of sustenance, yet no compulsory method was chalked out for this purpose until the 43 Eliz. c. 2, s. 81; 1 Bl. Com.; *Mirroure*, 14; 1 Shaw, 135; 2 Sess. Ca. 62; 1 Burr. 223, 450; Cowp. 553.

The poor rate is a charge upon the occupier with respect to the land, and not upon the owner or lessor with respect to his rent: *Garby's Case*, 2 Bulst 354; Ld. Raym. 1280.

The poor rate must be assessed upon the visible property only, both real and personal, which the occupier had within the parish, and not upon his property elsewhere: *Garby's Case*, 2 Bulst. 354.

The poor rate is a personal rate and not a tax on the land: *Theed v. Starkey*, 8 Mod. 314; Foley, 15; 5 Co. 67.

Under the construction of the Riot Act, which speaks of ability in general, and does not specify, as the 43 Eliz. c. 2, does, any particular taxable object, or refer at all to that statute, all persons having personal property within

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the district assessed are inhabitants, and as such are rateable: *Atkins v. Decisions on Davis*, Cald. 315. sect. 1.

Per Holt, C. J.: There ought to be a monthly rate, because possessors are to pay and possessions frequently change: *Rex v. Littleport*, 6 Mod. 97; Salk. 531.

Assessments for the poor it was held ought to be raised monthly, and one could not be rated for the whole quarter: *Tracy v. Talbot*, 2 Salk. 532; but later it was held that a poor rate need not be made monthly: *Rex v. St. George*, 2 W. Bl. 694

A poor rate ought not to be made for a whole year, (but now see 32 & 33 Vict. c. 41), nor for half a year: *Bishopsgate v. Beecher*, 8 Mod. 10; *Stevens v. Evans*, 2 Burr. 1152.

The overseers, with the confirmation of the justices, may make a poor rate without the concurrence of the parishioners: *Tawney's Case*, 8 Mod. 97; Salk. 531; Ld. Raym. 1013; S. P. Reg. v. *St. Michael's, Cornhill*, Vin. Abr. 425.

Mandamus was granted to justices, and the churchwardens and overseers of the precinct of the cathedral church of Norwich, (which is a distinct jurisdiction) to make rates for relief of the poor: *Lidleston v. Exeter, Mayor, &c. of*, Foley, 18; Comb. 422.

A standing poor rate cannot be made, but must be varied by circumstances: *Rex v. Audley*, 2 Salk. 526; S. C. Holt, 576.

If two several houses are inhabited by several families who make and have but one common avenue or entrance for both, yet in respect of their original both houses continue rateable severally, for they were at the first several houses, and if one family goes one house is vacant; but if one tenement be divided by a partition and inhabited by different families, namely, the owner in one and a stranger in another, these are several tenements severally rateable while they are thus severally inhabited, but if the stranger and his family go away, it becomes one tenement: *Tracy v. Talbot*, 2 Salk. 532.

An assessment according to the land tax is bad: *Rex v. Clerkenwell*, Foley, 12.

Rent is not a standing rule for making the poor rate, for circumstances may differ, and there ought to be regard to *ad statam et facultates*: *Anon.* Comb. 479; Vin. Abr. 424.

The allowance of justices need not set forth that the parties were dwelling in or near the division where the parish lies: *Cobbet v. Mary St. Lincoln's*, 16 Vin. Abr. 425.

The allowance of the poor rate by two justices is merely a ministerial act: *Rex v. Uttoxeter*, Bott.

An ancient rate may be a good rule for future assessments, but it cannot be confirmed as a standing rate: *Rex v. Wrexham Regis*, Bott.

The justices in session are the proper judges of the proportion or equality of a poor rate: *Rex v. Weobly*, Bott.

Two justices are necessary to sign a poor rate by way of form, but it is the churchwardens and overseers that have the power of making it; whether it is fair or not is a question for the sessions: *Rex v. Dorchester JJ.*, 1 Str. 393.

If the overseers refuse to make a rate the court will grant a *mandamus* to compel them, on affidavit, that a rate is wanted; but not to make an equal rate: *Rex v. Barnstaple*, 1 Barnard, 137; Foley, 26.

The justices may be compelled by *mandamus* to allow a poor rate: *Rex v. Edwards*, 1 W. Bl. 637; 1 Sid. 377.

On evidence of a waste in the parish of A., on which a land owner in B. had a right of common appurtenant, it was held that the allotment given

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in lieu of that right was rateable in the parish of A : *Kemp v. Spence*, 2 W. Bl. 1245.

Where part of a farm lay in township A., and part in parish B., a rate for parish B. for the part in B. was held good, though previously the tenant had paid rates only to A., but had paid tithes and church rates to B. : *Rex v. Etwall*, 3 Smith, 15.

Justices for the county cannot allow a rate made by overseers of a borough : *Rex v. Foley*, Bott. ; 2 Burr. S. C. 402 ; Cald. 136.

The court cannot issue a *mandamus* to make an equal rate, it is for the sessions to judge whether it is equal or not : *Rex v. Canterbury*, 4 Burr. 2290.

A poor rate made upon three-fourths of the yearly value of lands, and on one moiety of the yearly value of houses, is not disproportionate or unequal : *Rex v. Brograve*, 4 Burr. 2491.

A poor rate confirmed at sessions will not be set aside unless manifestly unequal : *Rex v. Brograve*, 4 Burr. 2491.

Per Lord Mansfield, the poor rate is not a tax upon the land, but a personal charge in respect of the land : *Rowls v. Gells*, Cowp. 452 ; 1 Doug. 304, *n.*

A rate made on one half of the full yearly value or rack-rent of farms, and taking one-twentieth part of all stock-in-trade, personal estate, and money out at interest, valuing the interest of such twentieth part at four per cent., and then rating one moiety of such part, varying the proportions as circumstances require, was held to be a good and equal rate : *Rex v. Hardy*, Cowp. 579.

The court will not quash a poor rate unless it is unequal on the face of it : *Rex v. Hardy*, Cowp. 579.

The court will not grant an information against overseers for illegally altering a poor rate if they have committed the imputed offence indvertently : *Rex v. Barratt*, 2 Doug. 465.

Inequality must appear plainly on the face of a rate or the court will not quash it : *Rex v. Butler*, Cald. 93.

A rate on lands and houses at one penny in the pound, without making any distinction between farms, dwelling-houses, or cottages which had before been respectively rated in different proportions, was held unequal : *Rex v. Butler*, Cald. 93.

A poor rate cannot be made to repay money borrowed without statutory authority : *Rex v. Wavell*, 1 Doug. 116.

Whether houses are to be rated in a different proportion to land depends upon local circumstances, and the court will not interfere when they are rated equally : *Rex v. Sandwich*, 2 Doug. 562 ; Cald. 105.

A person living out of a parish, but having land in his own occupation and manurance within the parish, is a parishioner where the land is : *Jeffrey's Case*, 5 Co. 66 ; 1 Gib. Codex, 220 ; 2 Inst. 702 ; 2 Saund. 423 ; Cald. 356.

Overseers may make a rate to reimburse themselves law expenses necessarily incurred : *Rex v. Micklefield*, Bott. ; Cald. 507.

If it appear on the face of a rate that the several proportions are unequal the court will quash it : *Reg v. Lakenham*, Bott. ; Cald. 522.

An occupier is rateable by whatever tenure he holds : *Bute, Lord, v. Grindall*, 1 T. R. 343 ; *Rex v. Bell*, 7 T. R. 598.

The usage of a particular place cannot control the operation of a general statute as to the poor rate : *Rex v. Hogg*, 1 T. R. 721 ; Cald. 266.

The justices at the sessions are the proper judges of the equality of the assessment, and the court will not interfere upon the ground of inequality, unless the inequality be apparent on the rate : *Rex v. Aire and Calder Navigation*, 2 T. R. 660.

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Where a navigation runs from A. to B., through several intervening parishes, *Decisions on* and the tolls for the whole navigation are collected in those two parishes, they *sect. 1.* may be rated in those two parishes for the whole amount according to the proportion collected in each: *Rex v. Aire and Calder Navigation*, 2 T. R. 660.

If a poor rate be not published on the Sunday next after it is allowed it is a nullity, and payment cannot be enforced, though there be an appeal to the sessions, which was dismissed: *Rex v. Newcomb*, 4 T. R. 368; *Fox v. Davies*, 18 L. J. C. P. 48.

If the owner of a house occupy part of it, he is liable to be rated for the whole, unless there be a distinct occupation of the rest by some other person: *Rex v. St. Mary-the-Less, Durham*, 4 T. R. 477.

The court would not quash a rate, though the sessions on an appeal stated in a case that it was partly made to pay a debt incurred by the late overseers, the rate itself appearing on the face of it to be legal: *Rex v. Gloucester, Mayor of*, 5 T. R. 346; *Nol.* 272.

Every person is to be rated to the poor rate according to the present value of his estate, whether that value has or has not been increased by his own improvements: *Rex v. Mast*, 6 T. R. 154.

The accounts of an overseer should be settled at the end of the year; and if a person be appointed overseer for four successive years, and do not make any rate in the three first to reimburse himself what he expends, he cannot in the fourth year make a rate for that purpose: *Rex v. Goodcheap*, 6 T. R. 159.

If a person rated has any objection to the rate, *e.g.*, that it is made for six months, he must appeal to the next sessions; and if he do not appeal he cannot bring trespass if distrained upon: *Durrant v. Boys and Burgis*, 6 T. R. 580.

A lessee of lands should be rated to the poor rate according to the present value of his lands, and not merely on the rate reserved by the lease. Rent reserved is not conclusive evidence of the value of the land: *Rex v. Skingle*, 7 T. R. 549.

The occupier of land is liable to be rated to the poor rate without considering whether he has any title. If a disseisor obtain possession of land, he is rateable as the occupier of it: *Rex v. Bell*, 7 T. R. 598.

One who went from home with his family for nearly a year, but left his assistant to carry on his business in his shop in one room of the house, which for this purpose was parted off by laths from the rest, and left the key of the house door with a friend, and had the garden cultivated for his own benefit as usual, was held liable to be rated as occupier of the whole house: *Rex v. Aberystwith*, 10 East, 354.

The residence by one as servant to the owner at an annual salary is the occupation of the master, who alone can be rated in respect of such occupation: *Rex v. Tynemouth*, 12 East, 46.

The court will not grant a *mandamus* to justices to issue warrants of distress to levy a poor rate, unless the person rated has been previously summoned by the justices; but a *mandamus* will lie to justices to receive complaints against persons rated who refuse to pay, and to proceed thereupon by distress warrant: *Rex v. Benn and Church*, 6 T. R. 198.

In allowing a poor rate two justices may act separately: *Rex v. Hamstall*, 3 T. R. 380; *Wootton v. Harvey*, 6 East, 75.

The description of the person rated as "late Hurrell's, now —," and in the subsequent rates, "late Samuel Hurrell," was held sufficient by Wood, B., at Nisi Prius: *Hurrell v. Wink*, 8 Taunt. 369.

A *mandamus* to make a rate will be directed to all the parish officers, although applied for by two of them: *Anon.* 2 Chit. 254.

A poor rate must show on the face of it in respect of what property the

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assessment is made upon each individual charged by the rate: *Rex v. Aire and Calder Navigation*, 2 B. & C. 713.

A landlord cannot be rated in respect of houses let to tenants who have been excused their rates on the ground of poverty: *Rex v. Hull Dock Company*, 5 D. & R. 359; 3 B. & C. 516.

The burgesses of Nottingham and the occupiers of ancient messuages there had, as such, for a certain portion of the year, a right to turn cattle into certain fields, and to exclude during that period the owner of the soil. This it was held was a mere right of common, and not rateable: *Rex v. Churchill and Booth*, 4 B. & C. 750.

Annual profit is the rent which a tenant would give, he paying the poor rates and the expenses of repairs, and the other annual expenses necessary for making the subject of occupation productive, and allowing him a deduction from the rent, where the subject is of a perishable nature, towards the expense of renewing or re-producing it: *Rex v. Lower Mitton*, 9 B. & C. 810.

"Inhabitant or other" means resident inhabitant or other inhabitants: *Rex v. North Curry*, 7 D. & R. 424; 4 B. & C. 953.

A publication of a rate is good though it does not state that it has been allowed by the justices: *Bennett v. Edwards*, 7 B. & C. 586; 1 M. & R. 482.

Where a poor rate was made upon two-thirds of the net rent of lands, and one-half the net rents of collieries, it was held that this might be a fair and equal mode of rating; and as the rate did not manifestly appear to be unequal, the court refused to quash it: *Rex v. Tomlinson*, 9 B. & C. 163.

The occupier of land subject to floods should not be rated at the same sum that other lands of similar quality should be rated, but at the same sum *minus* the sewers rate; therefore in rating land liable to sewers rate the amount thereof must be deducted from the valuation: *Rex v. Adames*, 1 Nev. & M. 662; 4 B. & Ald. 61.

Lands were embanked from a river and were by statute to be "free from all taxes and assessments whatsoever;" premises built on these lands are exempt from payment of poor rates in respect of such occupation of the lands: *Rex v. London Gas Light Company*, 8 B. & C. 54.

Overseers may not charge in their accounts for any of the following matters:—For making poor rates; for making divisions of the same; for making copy of same for collectors; payments to an accountant for examining, making up, and entering the accounts of the year, and lists of defaulters on the rates; poundage for collecting the rates; although such charges have been authorized by resolutions of vestry: *Rex v. Gwyer and Manley*, 2 A. & E. 216; 4 Nev. & M. 158.

The parish officers cannot abandon a poor rate duly made, allowed, and published: *Rex v. Cambridge JJ.*, 2 A. & E. 370; 4 L. J. (N. S.) M. C. 8; 4 N. & M. 238; and see *Reg. v. Fouch*, post, p. 19.

A poor rate is not a complete and valid rate until allowance and publication; and when a rate is once made it exists until superseded by another duly made, allowed, and published: *Bushell*, app., *Luckett*, resp., 2 M. G. & S. 111, 117.

Where a landlord who was rated in respect of a farm which was vacant refused to pay the rate and did not appeal, and being summoned, the justices, after hearing the case, declined to grant a distress warrant; the court refused to interfere, as the justices had heard and exercised their judgment upon the application, and it was doubtful whether the landlord was properly rated as a beneficial occupier: *Rex v. Morgan*, 2 A. & E. 618, *n.*; 3 N. & M. 68; S. C. *Rex v. Buckinghamshire JJ.*, 3 N. & M. 68.

It is a general rule with respect to parish rates that they are not to be made retrospectively. The payers being a fluctuating body, nothing is more just or more likely to conduce to economy than to hold that they who create a charge shall themselves bear it: *Rex v. Dursley*, 5 A. & E. 15.

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A servant occupying a house cannot be said to hold it as a servant if it be not the master's house; the servant is rateable in such case as the occupier: *Reg. v. Wall Lynn*, 8 A. & E. 379; 7 L. J. M. C. 85; 3 N. & P. 410. *Decisions on sect. 1.*

If poor rates not duly published, and other rates which are regular, be enforced by the same warrant, the warrant will be wholly bad: *Sibbald v. Roderick*, 11 A. & E. 38; 3 P. & D. 106.

A poor rate is bad which is made for a period for which a rate has already been made and not quashed: *Reg. v. Fordham*, 11 A. & E. 73.

A *mandamus* will issue to compel one of the churchwardens and one of the overseers to concur in making a rate where they refuse to do so unless the rate expressly stated that certain inclosures are within a particular district of the parish. The rule for a *mandamus* in such a case is absolute in the first instance: *Rex v. Edlaston*, 6 L. J. (N. S.) M. C. 36; 1 N. & P. 20; and *Rex v. Gadsby*, 1 N. & P. 572, *infra*.

The duty of the justices in allowing a poor rate since 6 & 7 Will. 4, c. 96, is not judicial or discretionary, but ministerial as before that Act: *Reg. v. Yarborough, Earl of*, 12 A. & E. 416; 9 L. J. M. C. 62; 3 P. & D. 491.

On an information and bill by some of the ratepayers of a parish, on behalf of themselves and other ratepayers, against some of the vestrymen of the parish, and the vestry clerk, complaining that the vestry mixed the moneys arising from district rates into one fund for the payment of the general expenses of the parish, the court granted an injunction to restrain the vestry from applying any portion of one class of rates and receipts in supplying the deficiencies of any other class of rates, and generally from applying the moneys received by them for any other purposes than those for which they were authorized to be collected: *Atty.-General v. Daniel*, 9 L. J. Ch. 394.

Although after allowance a poor rate cannot be abandoned so as to destroy its existence, yet the overseers may so far abandon it as not to incur expenses at the sessions in support of it: *Reg. v. Fouch*, 11 L. J. M. C. 1; 2 Q. B. 308; 1 G. & D. 585.

A poor rate must be published on or near to the doors of all the churches and chapels (belonging to the Established Church) within the parish: *Reg. v. Whipp*, 12 L. J. M. C. (N. S.) 64; 7 J. P. 656.

The word "inhabitant" has no definite legal meaning; it must be construed according to the subject matter and context of the instrument in which it is used: *Rex v. Masshiter*, 1 Jur. 165.

Lands taxed with the cost of keeping up embankments to prevent encroachments of a river upon those as well as upon other lands, are rateable at the full annual value, without deduction on account of the embankment tax: *Reg. v. Vauge*, 3 Q. B. 242.

A *mandamus* will lie to the overseers to make a poor rate on the prosecution of one of the overseers, on affidavit that the other overseer had refused to concur in making the rate: *Rex v. Gadsby*, 1 Nev. & P. 572.

Under 43 Eliz. c. 2, s. 1, the person who occupies that which may produce profit, cannot exempt himself by not making profit, as land partly in grass, of which no use is made, and partly out of cultivation: *Reg. v. Heaton*, 20 J. P. 37.

An action was tried on the Norfolk spring circuit, 1844, before Mr. Justice Pattison, against overseers for maliciously underrating the plaintiff, with intent to deprive him of a beer house license:—Held, 1. That the rate though unappealed against by the plaintiff was not conclusive evidence of the value therein as entered to the premises in question. 2. That the defendants were not justified in deducting 25 per cent. from the actual value of premises as a means of ascertaining and fixing their rateable value, for the rateable value is the actual value; and *semble*, that where two distinct but adjoining tenements are held together under one title,

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they ought to be rated together as one occupation: *Flitney v. Way*, 8 J. P. 281.

The allowance of a poor rate by the justices is purely a ministerial Act; and if it be good on the face of it, they cannot inquire into its validity. A *mandamus* to the justices to allow the rate will lie, and it will be made absolute in the first instance: *Reg. v. Lord Godolphin*, 13 L. J. (N.S.) M. C. 57; 8 J. P. 521.

In a notice of allowance of a rate it is not necessary to show how the rate was allowed; and therefore, where it appeared that a rate was allowed by a police magistrate, it was held not necessary to allege that he had made the allowance at a police court: *Reg. v. Paynter*, 16 L. J. M. C. 136.

Held by the Court of Exchequer Chamber, affirming the judgment of the Court of Queen's Bench, in *Reg. v. Paynter*, 7 Q. B. 255, that any one of several joint occupiers is liable for the whole amount of their joint assessment to a poor rate, and that a warrant of distress against any one alone is good: 16 L. J. M. C. 136; 13 J. P. 457; *Paynter v. Reg.* 10 Q. B. 908.

A poor rate made upon the occupier of premises used by a literary society was duly published and allowed, but no appeal was made by the person rated. Held, that such person could not set up the statutory exemption as a ground for refusing to pay the rate, and that the magistrate was bound to issue a warrant to enforce payment: *In re Birmingham New Library*, 18 L. J. M. C. 89.

The liability to be rated arises generally from occupation at the time the rate is made, and not for continuance in occupation afterwards. *Per* Lord Campbell, C. J.: *Reg. v. Wills*, 18 J. P. 39.

It is a principle of rating that the rate shall not be imposed to reimburse past expenses; but the rule is subject to necessary exceptions, as is illustrated in the case of *Reg. v. Read*, 13 Q. B. 524.

Where a rate is duly made under a local Act by vestrymen *de facto*, it is not invalid, because they may not have been lawfully elected, or because notice of their meetings had not been given to those persons who, by reason of the election of other vestrymen being void, continued vestrymen *de jure*: *Lorant v. Scadding*, 19 L. J. M. C. 5; 3 H. L. Ca. 418; 17 L. T. 225.

A poor rate was held to be made on the 12th August, although not signed until after several adjournments of that meeting of the vestrymen, and although contained in four books: *Lorant v. Scadding*, 19 L. J. M. C. 5; H. L. Ca. 418; *Scadding v. Lorant*, 17 L. T. 225.

Seem, a poor rate may be made in more books than one: *Scadding v. Lorant*, 19 L. J. M. C. 5.

A sum paid for the goodwill of public houses is to be taken into account in estimating the rateable value of A.'s occupation of a brewery and premises; but A. was not entitled to claim a deduction equal in amount, as an outgoing necessary to the obtaining by the brewery of the profit derived from the trade of the public houses: *Allison v. Monkwearmouth Shore*, 4 E. & B. 13; 18 Jur. 1073; 23 L. T. 232; 23 L. J. M. C. 177; 18 J. P. 438.

Per curiam, we are all clearly of opinion that the assessment ought to have been made upon land let for a year for the ordinary purposes of land. The land must be rated upon the principle of what would be given for it as land in its natural state, let from year to year, with a covenant not to build upon it: *Reg. v. Grand Junction Canal Company*, 23 J. P. 404.

When common land was enclosed, over which the inhabitants of a parish had a right of common, and a grant of land was made for parish purposes, and for the employment and support of the poor of the parish:

GENERALLY AS TO THE POOR RATE—*continued*.

Held, that the income was well employed for the relief of the poor in aid of the poor rates and other parochial burthens of the parish: *Attorney-General v. Blizard*, 25 L. J. 171, Ch.; 26 L. T. 181; 21 Beav. 233. *Decisions on sect. 1.*

Money raised by poor rates is impressed with a definite trust, and as it would be a breach of trust to apply such money in the discharge of outstanding debts, a creditor who has obtained judgment in respect of a debt incurred prior to the year for which the rate was raised, will be restrained from levying execution against the money so raised; but query, can a judgment creditor of the existing year levy execution against such money: *Attorney-General v. Wilkinson*, 32 L. T. 386; 23 J. P. 211; 28 L. J. Ch. 392.

A poor rate which is made in part for past expenses is bad altogether, and the guardians had no authority to make a retrospective call. The poor law board have no power to authorize the making of a rate to pay a past debt; and according to the true construction of the 81st and 82nd articles of the Consolidated Order no such rate is contemplated: *Waddington v. City of London Union*, Ex. Ch. 22 J. P., n, 367, 703, 755; 32 L. T. 225; 28 L. J. (N. S.) M. C. 113; 22 J. P., n, 367; n, 703, 755; 1 E. B. & E. 370; 5 Jur. (N. S.) 262.

A rate made, in fact, for the relief of the poor, but which does not show, by intrinsic evidence, either by the heading, or by something in the body of the rate, for what purpose it is made, is void; and the court discharged a rule, in lieu of a *mandamus*, to order justices to issue their distress warrant to levy such a rate for the relief of the poor: *Reg. v. Eastern Counties Railway Company*, 5 E. & B. 974.

On a summons to enforce a poor rate, as soon as the person summoned is shown to be in the visible occupation of the property rated within the parish, the justices are bound to issue a warrant of distress; and they cannot go into the question of whether or not the occupation be beneficial, as that is matter only for the quarter sessions on appeal: *Reg. v. Warwickshire JJ.*, 24 J. P. 334; 6 Jur. (N. S.) 629; S. C. *Reg. v. Bradshaw*, 2 E. & E. 836; 29 L. J. (N. S.) M. C. 176.

The balance standing to the credit of a parish ought to be taken into account by the guardians before making an order of contribution, and cannot be treated as non-existing: *Hale v. City of London Union*, 6 Jur. (N. S.) 74; 29 L. J. (N. S.) M. C. 5; 6 C. B. (N. S.) 863.

Where the amount of a poor rate comes to only the fraction of a farthing the ratepayer is not bound to pay it: *Morton v. Brammer*, 29 L. J. M. C. 218; 2 L. T. (N. S.) 600; but it has since been held that if the correct amount of an assessment include a fraction of a farthing, and the assessment be made up to an even sum, no action will lie for an illegal distress for that sum, as the objection, if any, would be that the person rated was over-assessed, and appeal in that case is the proper remedy: *Bavin v. Hutchinson*, 31 L. J. M. C. 229; 6 L. T. (N. S.) 504; 25 J. P. 216.

A local Act enacted that "no rate, tax, or assessment whatsoever, parliamentary or parochial," shall be levied on certain property:—Held, that the words "parliamentary or parochial" did not limit the previous generality of the words; and that at all events a rate made fell within the words "parliamentary tax or rate": *Kent JJ. v. Maidstone Commissioners*, 2 L. T. (N. S.) 353; 24 J. P. 355, 710.

Where a clergyman appealed against an assessment for house-duty on a house occupied by him, free of rent, on the ground that he was prohibited from letting it, and the commissioners allowed an abatement on that account, on a case stated for the opinion of the judges, by demand of the surveyor, the judges held that the commissioners were wrong, and that no deduction ought to be allowed on the ground claimed: *Re Bennett*, 11 L. T. (N. S.) 24.

Whether a rate is valid or not, it is good as against a person rated in it

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until appealed against: *Baker*, app., *Locke*, resp., 18 C. B. (N. S.) 52; 34 L. J. (N. S.) C. P. 49; 11 Jur. (N. S.) 65.

The occupiers of lands which are liable, *ratione tenuræ*, to the maintenance of their own highways are exempt from contributing to a poor rate levied by the overseers for the purposes of the relief of the poor and to meet a precept of a highway board of the district under 27 & 28 Vict. c. 101, s. 32, as to so much as they are assessed in respect of the repairs of the highways; for the substitution of the poor rate for the highway rate by the Highway Act, 1862, as the fund out of which the supplies for maintaining the roads have to come, does not take away the former exemption which had been preserved by the Highway Act, 1835: *Reg. v. Heath*, 35 L. J. M. C. 113; 1 L. R. Q. B. 218; 30 J. P. 182; 13 L. T. (N. S.) 669.

In assessing farm-buildings and corn-mills to the poor rate, a deduction ought to be allowed in respect of the amount set aside by a prudent owner for the future renewal of the buildings and machinery: *Reg. v. Wells*, 36 L. J. M. C. 109; 31 J. P. 597; 16 L. T. (N. S.) 790; 8 B. & S. 607.

Where houses or other buildings either with or without land, are let to a tenant, and the tenant agrees to take upon himself either wholly or in part, the repairs to which s. 1 of 6 & 7 Will. 4, c. 96 refers, and which would ordinarily fall upon the landlord, no allowance is to be made in respect of these repairs, and the rent actually paid is the rateable value of the premises: *Ib.*

No allowance in respect of contingent or future renewal of buildings or machinery ought to be made from the rent before the latter is adopted as the test value: *Ib.*

The 8 & 9 Vict. c. 83, s. 37, (Scotland) directs that "the value shall be taken to be the rent which may be reasonably expected one year with another," *Per* Lord Cranworth, on appeal to the House of Lords:—I am not at all satisfied that the rental means that the tenant is only to occupy it (Edinburgh University Building) for the same purposes for which it is occupied by the body that is proposed to be rated: *Greig*, app., *University of Edinburgh*, resps., L. R. 1 Scotch Appeals, 354.

A parish may be so divided for civil and ecclesiastical purposes, that a usage to rate land in one part to the poor rate of another part, may be good, if it be impossible to say that the usage had not a legal origin: *Reg. v. Watson*, L. R. 3 Q. B. 762.

RATING BRIDGES AND FERRIES IN RESPECT OF TOLLS.

The lessee and occupier of an ancient and exclusive ferry, not being an inhabitant resident within the township in which one of the termini of the ferry is situated, is not liable to be rated there for any share of the tolls of the ferry; for supposing a ferry to be real property, it is not such real property as is mentioned in 43 Eliz. c. 2, s. 1, the occupation of which subjects the person occupying to the relief of the poor of the place: *Rex v. Nicholson*, 12 East, 330.

All the cases where persons have been held rateable in respect of the occupancy or receipt of tolls (apart from the question of inhabitants) have been where they at the same time occupied real visible property, connected with such tolls in the place where they were rated: *Rex v. Nicholson*, 12 East, 330.

The owner of a ferry residing in a different parish, but taking the profits of the ferry on the spot by his servants and agents, is not rateable for such tolls in the parish where they are so collected, and where one of the termini of a ferry was situated, and on which shore the ferry boats were secured by means of a post in the ground; the soil itself at the landing place being the King's common highway, and the owner of the ferry

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having no property in, or exclusive possession of it: *Williams v. Jones*, *Decisions on* 12 East, 346. —
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The lessee of the tolls of a public bridge is not rateable as such whatever rent he may pay: it not appearing that he was the occupier of any local visible property within the parish; nor that he was an inhabitant resident there, deriving profit there from the tolls beyond the rent paid for the same, which was applicable to the public purposes of the bridge: *Rex v. Eyre*, in re *Key Bridge, Tewkesbury*, 12 East, 416.

A bridge was erected over a navigable river pursuant to a statute. The proprietors purchased on each side of the river land in parishes A. & B., on which they erected a pier and an abutment. They were authorized to erect toll-gates and to take tolls; they took tolls on one side of the bridge in parish A., but they were held rateable for the land occupied by them in parish B.: *Rex v. Barnes*, 1 B. & Ad. 113.

One is rateable in respect of the occupation of land by a bridge on which tolls are taken for passage: *Reg. v. Salisbury, Marquis of*, 8 A. & E. 716; 3 Nev. & P. 476; 7 L. J. M. C. 110.

The owner of tolls taken in respect of a bridge is the person to be rated in respect of the occupation of the land, though the tolls be let to another, and provided the agreement did not profess to demise the land: *Reg. v. Salisbury, Marquis of*, 8 A. & E. 716; 3 N. & P. 476.

A company were held rateable for a bridge on which tolls were collected, though there was nothing left for the shareholders after paying interest, &c.: *Reg. v. Blackfriars Bridge Company*, 9 A. & E. 828; 8 L. J. M. C. 29; 1 P. & D. 603.

Where a bridge, lands, and premises connected with it had been in 1729 conveyed to trustees upon trust to permit certain subscribers (who had built the bridge) and their heirs, &c., to receive the tolls, and to have the sole management of the bridge, and the shares of the subscribers had been sub-divided into a large number of shares, and A. B., one of the shareholders resided in parish C. at one end of the bridge, and a toll collector was stationed at the other end in parish D., it was held that the subscribers were the occupiers of the bridge and tolls, and that the rate was well made upon them; and that a warrant of distress might well issue against A. B. for the whole of the rate: *Reg. v. Paynter*, 14 L. J. M. C. 179; affirmed on appeal: *Paynter v. Reg.* 16 L. J. M. C. 136.

A bridge had its abutments in two different parishes: held that the net rateable value ought to be apportioned between the two parishes in the ratio of the value produced in each parish by the transit over the bridge, *i. e.*, according to the length of the bridge in each parish, which in this particular case was in equal moieties: *Reg. v. Hammersmith Bridge Company*, 18 L. J. M. C. 85; 15 Q. B. 369; 13 J. P. 103.

A ferry company were rated as occupiers of a "ferry, landing, and tolls," in a sum including half the net value of the tolls: held, that the tolls could not be rated either directly, as being connected with real property occupied in the township, and as thus ceasing to be incorporeal; or indirectly by taking them into account as profit of the lands. But that the land should be rated on an estimate of the rent which might be obtainable for it in consideration of its being available for the purpose of earning the tolls. Also, that the rateable value of the land in question could not be ascertained by dividing the profits in the proportion of the land occupied in the two townships, and the length of the transit: *Reg. v. North and South Shields Ferry Company*, 22 L. J. M. C. 9; 17 J. P. 21; 1 E. & B. 140; 17 Jur. 181.

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The Grantee of the right of navigation on a navigable river is rateable in respect of the tolls arising from a sluice erected in the same parish; though he himself resides elsewhere and the tolls are collected in another parish: *Rex v. Cardington*, Cowp. 581.

Where a navigation runs through several intervening parishes, and the tolls for the whole navigation are collected in these two parishes, the undertakers may be assessed to the poor rates in those two parishes for the whole amount according to the proportion collected in each: *Rex v. Aire and Calder Navigation*, 2 T. R. 660.

A bargeway and toll-gate are rateable in the parish where situated, for such part of the tolls as become due there, notwithstanding the tolls are collected in another parish: *Rex v. London, Mayor of*, 4 T. R. 21.

Tolls levied under a navigation Act for goods carried the whole length of the navigation from A. to B. are rateable in B., though in fact they are collected in a parish between A. and B: *Rex v. Page*, 4 T. R. 543.

By statute, commissioners of a navigation were authorized to take certain tolls, the whole of which were directed to be applied to public purposes, and it was held that the tolls were not rateable: *Rex v. Salters' Load Sluice to Stranground Sluice*, 4 T. R. 730.

Where an Act directs that tolls shall be exempt from any rates, &c. other than such as the lands which should be used for the purposes of a navigation would have been subject to, if the Act had not passed, that goes to exempt the tolls, *quâ* tolls altogether from being rated, leaving the land rateable as before: *Rex v. Leeds and Liverpool Canal Company*, 5 T. R. 325.

A canal company are rateable for the tolls in the different parishes where they became due, though they were collected in other parishes: *Rex v. Stafford and Worcester Canal Navigation*, 8 T. R. 340.

Where goods are carried along two different lines of canal, one of which is by statute exempted from being rated in respect of the tolls, and the other is not, though the voyage terminate in the exempted line where the tolls became due and are received, yet the canal company shall not be rated for more than the proportion of toll accruing in respect of the carriage along the exempted line: *Rex v. Leeds and Liverpool Canal Company*, 5 East, 325.

A statute having empowered the Duke of Bridgwater to erect a lock upon the Rochdale Canal, and to receive thereat certain rates or tolls on vessels navigated from that canal into his own, as a composition for the profits arising to him from certain wharfs at Manchester, which were sacrificed for the public benefit in that navigation; held, that a rate on his trustees, occupiers of the "Rochdale Canal tunnel dues or rates," (which dues or rates are only other names for the lock rated therewith) is good, though the trustees were found not to be inhabitants of the township for which the rate was made: *Rex v. Macdonald*, 12 East, 324.

Tolls *per se* are not rateable to the poor rate, but only in connection with more real local property: *Rex v. St. Mary, Leicester*, 6 M. & S. 400.

Where a statute empowered a canal company to take rates in respect of vessels navigating the canal, and expressly exempted such *rates* from payment of all taxes, rates, &c., it was holden that the land occupied by the canal was also thereby exempted from poor rates: *Rex v. Calder and Hebble Navigation Company*, 1 B. & Ald. 263.

Having regard to their Act, a canal company were held rateable for their land, &c., only at the same value as other adjacent lands, and not according to the improved value derived from the land being used for the purposes of the canal: *Rex v. Grand Junction Canal Company*, 1 B. & Ald. 289.

Where two canal companies became incorporated, and the special Act of one contained no provision as to rating, but the Act of the other directed

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the canal to be rated in a special manner, it was held that the canal made *Decisions on* under the first Act was not to be rated in the special manner pointed out *sect. 1.* in the second Act: *Rex v. Birmingham Canal Company*, 2 B. & Ald. 570. —

Where tonnage dues become payable in a parish, a rate on the proprietor of a navigation for the whole amount of the dues in that parish is bad: *Rex v. Milton*, 3 B. & Ald. 112.

One who occupies a house as surveyor to the navigation of the river Lee under the trustees thereof, is rateable, although by statute the tolls, &c., are exempted from being rated, and although the trustees have no beneficial interest, but act for the public: — *v. Armstrong*, 2 Stark. 543.

A rate is good in which the proprietors of a canal are rated for land within the township occupied by the canal, at a sum not exceeding that which they actually received for the passage of goods over that part of the canal situate within the township: *Rex v. Trent and Mersey Navigation*, 1 B. & C. 545.

The proprietors of an inland navigation are rateable in every parish through which the navigation passes as occupiers of land situated in each, used for the purposes of the navigation: *Rex v. Palmer*, 1 B. & C. 546; 2 D. & R. 793.

The proprietors of a navigation extending through several parishes are rateable not in respect of the "riverage" becoming due in a parish for goods landed there, but in respect of the profits of the land used for the navigation situated within the parish: *Rex v. Earl of Portmore*, 1 B. & C. 551; 2 D. & R. 798.

Having regard to their local Act the Oxford Canal Company were held rateable in respect of their mileage duty in every parish through which the canal passed—and also for a proportion of compensation duty paid to the proprietors of another canal: *Rex v. Oxford Canal Navigation*, 4 B. & C. 74.

A canal company who under their Act had agreed with owners whose land they had purchased for the canal for an exemption from all rates and taxes in respect of such lands, and for charging the same upon the adjoining lands of such owners, and the lands of the company were to be exempt, were held not liable to be rated for the land used for the purposes of the canal according to its improved value: *Rex v. St. Peter the Great, Worcester*, 5 B. & C. 473.

Where the surplus tolls of a navigation were directed by statute to be expended in repairing public bridges and highways, they were held not rateable to the relief of the poor: *Rex v. Weaver Navigation*, 7 B. & C. 70.

A canal company are rateable in every parish through which the canal passes, in proportion to the profits which the land occupied by them in each parish yields. Therefore the company are rateable in each parish for the amount of tonnage dues actually earned there, and not for a part of the whole amount earned along the whole line of the canal in proportion to the length of the canal in that parish: *Rex v. Kingswinford*, 7 B. & C. 236.

In the absence of any enactment compelling a navigation company to devote their profits to a specific object, the company were held liable to be rated, as there was a beneficial occupation in the form of the improvement of the works which formed their security for their capital, and produced the fund from which their dividends were to be paid: *Rex v. Tees Navigation Company*, 5 L. J. M. C. 31.

The rent is the criterion of value of the occupation of land; and the proprietors of a canal are rateable for the sum at which it would let, and not for their gross receipts *minus* their expenses: *Rex v. Duke of Bridgewater*, 9 B. & C. 68; 7 L. J. M. C. 81.

A navigation company were held not liable to be rated for land taken for

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the purpose of the navigation, because they were not occupiers of it, but had only an easement in it; but they were rateable for new cuts they had made, and for weirs, locks, and dams, erected on their own lands: *Rex v. Mersey and Irwell Navigation*, 9 B. & C. 95.

A navigation company were held not rateable for land covered with water, part of the river Avon, because they were not occupiers of that land, but had a mere easement in it; but they were rateable for a cut and lock they had made in connection with the navigation: *Rex v. Thomas*, 9 B. & C. 114; *S. C. Rex v. Avon Company*, 4 M. & R. 23.

Where a canal company were authorized to receive a mileage toll for goods conveyed on the canal, and in lieu of mileage duty distinct tolls on all vessels passing through two locks, it was held that the whole annual profits of the locks were for the purpose of being rated to be considered as having been produced in that parish where the locks were situated, and not in any of the other parishes through which the canal passed: *Rex v. Lower Milton*, 9 B. & C. 810.

A navigation company having an incorporeal hereditament only in the bed of a river, are not rateable as occupiers or owners of the river: *Rex v. Aire and Calder Navigation*, 9 B. & C. 820.

In fixing the amount of the rate the sum paid by the proprietors of a canal for poor rate, the expense of collecting the tolls, of repairing the banks of the canal, and of supplying it with water, ought to be deducted from the gross profits: *Rex v. Oxford Canal Company*, 10 B. & C. 163.

A sum paid in respect of interest on a mortgage of a navigation is in substance rent, and a rate ought to be calculated upon it accordingly: *Rex v. Chaplin*, 1 B. & Ad. 926.

Lands and buildings taken by a navigation company were to be rated in the same proportion as other lands and buildings adjoining, and were held liable to be rated at the same value as other adjacent lands and buildings, and not according to the improved value derived from their being used for the purposes of the navigation: *Rex v. Chelmer and Blackwater Navigation Company*, 2 B. & Ad. 14.

Persons in whom the navigation of a river is vested, but who have no interest in the soil, are not rateable for a dam which upholds the water of the river and renders it navigable: *Rex v. Aire and Calder Navigation*, 3 B. & Ad. 139.

The owners of mills in a township in compensation for the loss of water occasioned to them within the township by an adjoining navigation were allowed by statute to take certain tolls at a lock on the line of navigation, but in a different township. They were held not rateable at their mills in respect of the tolls so taken: *Rex v. Aire and Calder Navigation Company*, 3 B. & Ad. 533.

The lessee of toll traverse and of a toll-house is not rateable for the tolls but for the toll-house only: *Rex v. Snowden*, 4 B. & Ad. 713.

By a clause in a Canal Act it was provided that the company of proprietors "should from time to time be rated to all parliamentary and parochial taxes and assessments for or in respect of the land and grounds taken and used by the said company, and all warehouses and other buildings erected or to be erected by the said company of proprietors, as other lands, grounds, and buildings lying near to the said canal, and collateral cuts were or should be rated." This clause it was held was not to be construed retrospectively so as to divest the parish of the right of assessing the canal to the poor rate by including in the rateable valuation the profits derived from the company's tonnage dues: *Rex v. Dudley Canal Company*, 7 Dow. & Ry. 466.

It is not necessary in order to create a statutory exemption from poor

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rates that the Act should in express terms exempt from such particular rates. It is sufficient if by fair construction of the words of the Act the exemption clearly appears: *Rex v. Barnby Dun*, 2 A. & E. 551; 4 L. J. M. C. 78; 4 Nev. & M. 436; 1 Har. & W. 89. *Decisions on sect. 1.*

A canal Act provided that the tolls should not be rated, but that lands, &c., taken for the purposes of the undertaking should be rated in the same proportion and not at any higher value or improved rent than other lands, &c., adjacent, were or should for the time being be rated, and as the lands, &c., taken would have been rateable in case they had continued in their former state and had not been used for the purposes of the undertaking. The court held that the land, &c., used for the canal were to be rated at the value which the adjacent lands, &c., bore at the time of the rate; and this provision as to rating the original canal was held to extend to certain railways subsequently constructed by the canal company under incorporated powers: *Rex v. Monmouthshire Canal Company*, 3 A. & E. 619; 5 Nev. & M. 68; 1 Har. & W. 464.

The poor rate in respect of a navigation is to be estimated by a mileage calculation, the gross amount of toll upon any voyage being distributed over the length of line travelled: *Rex v. Woking*, 4 A. & E. 40; 3 Nev. & M. 395; 5 L. J. (N. S.) M. C. 17; 1 Har. & W. 539.

The expense of repairs being equal through the whole line, the amount is to be deducted on a like mileage calculation. In estimating the rateable profits compensation paid to another is not to be deducted; even if it be for injury to a mill: *Ib.*

If the lands in a parish are rated at rack rent, then 10 per cent. should be deducted for tenant's profit in ascertaining the rateable value of a navigation: *Ib.*

With reference to the provisions of certain navigation Acts it was held:

1. That land occupied by the canal, basin, and towing paths was to be rated according to the general value borne at the time of the rate by land immediately adjoining, including the value the land derived from its vicinity to the canal, but excluding the value which it would acquire if applied to the purposes of a canal;
2. That land occupied by cuts and basins not being in a prescribed line, was to be rated on the same principle;
3. That wharfs and quays adjacent to the cuts and basins were to be rated as similar property adjacent, including the value which such property derived from their vicinity: *Reg. v. Leeds and Liverpool Canal Company*, 7 A. & E. 671; 7 L. J. M. C. 41; 2 N. & P. 540.

A company authorized to make a river navigable were held liable to poor rates as the exclusive occupiers of their towing path, canal, and locks: *Bruce v. Bath River Navigation Company*, 11 A. & E. 463; 9 L. J. M. C. 43; 3 P. & D. 220.

Where the W. canal passed into the B. canal, and tolls were to be taken by the company of the latter canal on all goods passing it for their own use, and the Act of the W. canal enabled tolls to be taken which were exempted from payment of all assessments; it was held that the tolls receivable by the B. canal were exempt: *Reg. v. Birmingham Canal Company*, 7 L. J. M. C. 57.

By a Canal Company's Act "the rates or duties" leviable under it were exempted from payment of any taxes, &c., whatsoever: held (upon the authority of *Rex v. Calder and Hebble Navigation*, 1 B. & Ald. 263), that the land used for the canal and towing-path were not rateable to the poor's rate, although valued without reference to profits derived from the rates and duties: *Reg. v. Erewash Canal Company*, 27 L. T. Q. B. 78.

The trustees of the river Lee were upon general principles liable to be rated as beneficial occupiers of the land used for the purposes of the

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navigation; and since the passing of the stat. 13 & 14 Vict. c. 109, the statutes under which they acted showed no special grounds of exemption: *Reg. v. Trustees of the River Lee*, 24 L. T. 234.

Under a local Act the lands in H., the fee of which was in another person, but which were substantially occupied by the Regent's Canal Company, were to be rated as other lands of a like quality in the parish of H.: *Regent's Canal Company v. Hendon*, 6 E. & B. 852; 3 Jur. (N. S.) 208; 20 J. P. 710.

In assessing part of a canal which passes through several parishes, in order to ascertain its rateable value, the expense of maintaining locks situate in the parish is not to be deducted from the gross earnings of the canal in the parish, as it is not a local expense, and ought to be thrown on the whole line of canal: *Reg. v. Coventry Canal Company*, 28 L. J. (N. S.) M. C. 102; 32 L. T. 293; 5 Jur. (N. S.) 862; 23 J. P. 100.

Where a Canal Act directed that the company should be rated for their lands in the proportion as other lands lying near the same were rated; it was held that the company were to be rated for their lands at the same value as other adjacent lands used for agricultural or garden purposes, and not at the value of adjacent lands let or capable of being let on building leases: *Reg. v. Grand Junction Canal Company*, 7 W. R. 597; questioned in *Glamorganshire Canal Company v. St. Mary, Cardiff*, *infra*.

By a canal Act the company shall "from time to time be rated to all parliamentary and parochial taxes and assessments fixed in respect of the lands and grounds to be purchased or taken by the said company of proprietors in pursuance of this Act, in the same proportion as other lands and grounds lying near the same are or shall be rated, and as the same lands and grounds so to be purchased or taken would be rateable in case the same were the property of individuals in their natural capacity." Upon appeal against a rate it was held that the true criterion of value was what a tenant from year to year would give for the adjoining land, which was occupied by buildings, as being increased in value by being so occupied, and for the adjoining land of other descriptions, the different lands being brought into hotchpot; and that the company should be rated for the land occupied by them according to the aggregate value of the whole of such adjoining land at the time the rate was made: *Glamorganshire Canal Company v. St. Mary, Cardiff*, 24 J. P., n, 451; 2 L. T. (N. S.) 694; 29 L. J. (N. S.) M. C. 238; 6 Jur. (N. S.) 1146.

Public navigation commissioners who have a toll collector on the spot to collect rates, though themselves living elsewhere and doing nothing more than merely paying over the proceeds of the tolls towards the purposes specified by their statute, occupy the works by means of their collector, and are properly rated as occupiers: *Severn Navigation Commissioners v. Tewkesbury*, 29 J. P. 823.

In assessing a canal and premises necessary thereto, such as wharves, engine house, and reservoirs, the following principle of assessment was held to be correct:

1. The assessment upon the wharves to be made upon the whole area, each to be taken as a whole, on wharf, land, and buildings, with fixtures and machinery attached, and deriving some additional value from the capacity of being applied to the purposes of the canal.

2. The engine house to be assessed at the rent it was considered reasonable for the company to pay from year to year.

3. The canal proper to be assessed to the gross receipts along the whole line of the canal, allowing certain deductions for repairs, salaries, tenant's profits, &c.

4. The reservoirs to be assessed as land independently of their contributing to the earnings of the canal: *Birmingham Canal Navigation Company v. Birmingham*, 19 L. T. (N. S.) 311.

RATING CANALS AND INLAND NAVIGATIONS—*continued*.

In rating the Severn Navigation it was admitted that the case was governed by the decision in the House of Lords in the Mersey Dock Case, *Decisions on* *sect. 1.* and judgment was given for the Crown: *Reg. v. Severn Navigation Company*, 41 L. T. 36. —

In *Reg. v. Weaver* it was admitted that the case was governed by the decision in the House of Lords in the Mersey Dock Case, and judgment was given for the Crown: *Reg. v. Weaver*, 41 L. T. 36.

Under an Act of Parliament the Salford Union Railways and Canal Company granted a lease in perpetuity of the undertaking to the London and North Western Railway Company, under the provisions of which a canal, part of their undertaking, was worked and managed by a joint committee, in the name of the Salford Union Railways and Canal Company, and was worked by the London and North Western Railway Company, and that company made up to the shareholders of the other company the deficiency in the earnings of their undertaking, in accordance with the guarantee in the lease of the payment of certain rents or sums of money in the nature of rent. It was held that the annual rent or sum of money received by the Salford Union Railway and Canal Company from the London and North Western Railway Company was not to be taken into account in determining the rateable value of the canal: *Reg. v. Lapley and Penkridge Union Assessment Committee*, 9 B. & S. 568.

The rateable value of a canal is not to be increased by the fact that the company carries on a business as carriers. The buildings of the company were to be rated in the same proportion as other buildings near, and their lands and grounds in the same proportion as other lands and grounds, having regard to the company's local Act: *Grand Junction Canal Company v. Hemel Hempstead and King's Langley*, 40 L. J. M. C. 25; L. R. 6 Q. B. 172; 24 L. T. (N. S.) 228.

RATING CHARITIES.

Hospital lands are chargeable to the poor rate, for no man by appropriating his land to an hospital can exempt it from taxes to which it was before liable, and throw an additional burden upon his neighbours: *Anon.* 2 Salk. 526.

An almshouse wholly occupied by objects of a charity or their attendants, and of which no profit is made, although the absolute property of it is in the person who gives the alms, has no legal occupiers, and is not an object of taxation under the poor laws: *Rea v. Waldo*, Cald. 358; but now see *The Mersey Docks case*, post.

St. Luke's Hospital for lunatics was held not rateable, because mere nominal trustees cannot be esteemed occupiers or rated as such; the servants were not occupiers, and "as to the poor miserable wretches who are the unhappy objects of this charity, it would be too gross to conclude them to be proper persons to be rated to the relief of the parish," (now, however, see *Jones v. Mersey Docks*): *Rea v. St. Luke's Hospital*, 2 Burr. 1053; 1 W. Bl. 249.

Neither governor, servants, nor the poor in hospitals are rateable, (but now see *Jones v. Mersey Docks*): *Rea v. St. Bartholomew's Hospital*, 4 Burr. 2435; Cowp. 83.

An exemption, in a private Act, in 12 Car. 2, of lands given to charitable purposes, "from all public taxes, charges, and assessments whatsoever, civil or military," extends to the poor rate: *Rea v. Scott*, 3 T. R. 602.

A person employed by the Philanthropic Society to superintend the children, at annual wages under agreement that she shall have a "dwelling free from taxes," with certain other perquisites, and who may be dismissed at a minute's warning on receiving three months' wages, is not rateable as

RATING CHARITIES—*continued.*

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the occupier of the house provided for her by the society, she having no distinct apartments in the house but a bedchamber, and her family not being allowed to live there: *Rex v. Field*, 5 T. R. 587.

A master of a free school appointed under a charitable trust for the teaching of ten poor boys, inhabitants of the parish, is rateable for his occupation: *Rex v. Catt*, 6 T. R. 332.

The objects of a charitable foundation in the actual occupation of almshouses and lands for their own benefit, and liable to be dismissed for any breach of rules, are rateable in respect of such occupation: *Rex v. Munday*, 1 East, 584.

The objects of a charity in the actual occupation of almshouses, paying no rent for the same, and removable at the pleasure of the charity, are rateable in respect of such occupation: *Rex v. Green*, 9 B. & C. 203.

The London Missionary Society were held rateable for the premises occupied by them, though no one derived any pecuniary profit from the occupation of the premises: *Reg. v. Wilson*, 9 L. J. M. C. 100; 12 A. & E. 94.

A house and premises belonging to the Society of Friends, and used for charitable educational purposes, into which no child was admitted who did not contribute 12*l.* annually (the average annual cost being about 20*l.*), was held rateable: *Reg. v. Sterry*, 9 L. J. M. C. 105; 4 Jur. 1158; 12 A. & E. 84; 4 P. & B. 122.

A message, the rent of which is applied to a charitable object, is rateable; inhabitants of a parish have no power to bind their successors to exempt property from rates; and though rates may not have been paid for a long time, that fact does not affect the question of rateability: *Reg. v. Ellis and Greenwood*, 12 L. J. M. C. 20; 7 J. P. 179.

Though the whole income of a society is applied to religious and charitable objects, and no member derives any private advantage from the society, there is such a beneficial occupation of the premises occupied by the society as renders them rateable: *Reg. v. Baptist Missionary Society*, 18 L. J. M. C. 194; 10 Q. B. 884; 13 J. P. 378.

The Society of Licensed Victuallers were held to have a beneficial occupation of the school premises, and they were rateable in respect thereof: *Reg. v. Licensed Victuallers' Society*, S. C. *Licensed Victuallers' Society*, app., *Lambeth*, resp., 1 E. B. & S. 71; 4 L. T. (N. s.) 241; 7 Jur. (N. s.) 521; 30 L. J. (N. s.) M. C. 131.

Premises were held in trust to permit the master, wardens, &c., of B. to hold and enjoy a house for the residence of 100 boys, a schoolmaster, and necessary servants for the school. The boys were boarded, &c., and put out as apprentices, and the establishment was purely an endowed one; under these circumstances it was held that the premises were rateable, and that there was no exemption: *Reg. v. Stapleton*, 9 L. T. (N. s.) 322; 27 J. P. 772; 33 L. J. (N. s.) M. C. 17; 10 Jur. (N. s.) 44.

National schoolhouses, though no profit whatever is derived from their occupation, are assessable to the poor rate: *Laughlin v. Saffron Hill*, 12 L. T. (N. s.) 542.

Per Mellor, J.: "The judges of the court have attentively considered the two cases before them in connection with the decision of the House of Lords, and they were unanimously of opinion, unless the counsel in the case could show otherwise, that all buildings of a charitable or eleemosynary character must be rated in future to the poor rate. The only exceptions to such rates were those stated in the judgments of the House of Lords. That house had now given a legislative exposition of the statute of Elizabeth which the court must follow. The counsel for the charities did not think that they could contend against that decision, and must submit to judgment against them. The result of putting a more strict construction

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upon the statute of Elizabeth is, we think, not one to be regretted. Every *Decisions on* exemption from a tax or rate, or other public impost, in favour of a charity, *sect. 1.* constrains the taxpayer, or ratepayer, or other person bearing the impost, into a donor to the charity, in addition to the true donor. While the property was in the hands of the donor it paid rates and taxes in common with property generally, or at least was subject to any burden which might at any time be imposed on property generally. On no just principle could the owner, by any disposition of the property, free it from the common burden. He could only make a disposition of what remained, or would otherwise remain, for his own proper enjoyment:” *Ilkley Hospital v. Ilkley*; *Reg. v. British Orphan Asylum*; 41 L. T. 42.

RATING DOCKS, HARBOURS, AND PIERS.

Lands converted into docks according to an Act of Parliament which declared that the shares of the proprietors shall be considered as personal property, are rateable to the poor rate: *Rex v. Hull Dock Company*, 1 T. R. 219.

The London Dock Company were held liable even during the first twelve years of their establishment to be rated for the fair annual value of their warehouses and other works which were finished and productive, though all the works directed by their Act were not completed: *Rex v. St. George, Middlesex*, 9 East, 127.

A dock company is rateable in respect of tonnage duties recoverable by statute, though the expenditure in repairs exceed, during the period of the rate, the amount of the duties received: *Rex v. Hull Dock Company*, 5 M. & S. 394.

A dock company were rated at the full amount of their profits without first making any deduction for the poor rate; but this was held to be wrong for the “worth and value” according to the Company’s Act could only be the profits, minus the outgoings: *Rex v. Hull Dock Company*, 3 B. & C. 516.

Where persons were empowered by Act to make a dock, and take certain rates and duties, and the Act provided that these rates and duties should be applied in paying off the debt incurred, in making the dock, to keeping it in repair, and that then the rates should be lowered, reserving sufficient to keep the dock, &c., in repair; it was held that the trustees of the dock were not rateable in respect of the dock dues received by them, nor of the premises purchased or hired and used for the purposes of the dock, no individual having any beneficial occupation of the premises: *Rex v. Liverpool Dock Company*, 7 B. & C. 61. (Now, however, see the case of *Jones v. Mersey Docks*, *infra*.)

Where a corporation had been rateable in respect of town anchorage dues before 5 & 6 Will. 4, c. 76, it was held that section 92 of that Act by appropriating all the corporate funds to public purposes excepted the dues from rateability: *Reg. v. Liverpool, Mayor of*, 9 A. & E. 435; 8 L. J. M. C. 41; 1 P. & D. 334. But see *Jones v. Mersey Docks*, *infra*.

A dock company is not rateable for land as contributory to the earning of profits which accrued in another parish; the company were to be chargeable with all such land and parochial taxes as the same lands are now or may hereafter be subject to: held, that they were never to be rated for the lands at a higher amount than the value which the lands would have had at the time of rating if they had continued in the same state as when the Act passed, however the profits of occupation might be increased by the company’s works: *Reg. v. Bristol Dock Company*, 10 L. J. M. C. 105; 1 Q. B. 535; 1 G. & D. 76.

A dock company were held rateable for duties on ships entering their dock, such being profits on the company’s land in the parish; but they were not rateable in that parish for the dock in respect of duties which

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were paid by ships not entering or using the dock: *Reg. v. Hull Dock Company*, 7 Q. B. 2; 14 L. J. (N. s.) M. C. 114; 9 J. P. 405.

In rating a dock company the expense of a steam tug ancillary to the docks, and a reasonable allowance to the directors for personal trouble and expense, and for the exercise of skill and judgment in management, are to be allowed in estimating the rateable value, but no deduction is to be made for income tax. Cranes, steam engines, and other ponderous machinery, are properly included in estimating the rateable value of a dock: *Reg. v. Southampton Docks Company*, 20 L. J. M. C. 155; 14 Q. B. 587; 15 J. P. 145.

The entire rateable value of docks situated in several parishes, should be apportioned among the several parishes in proportion to the area of the docks respectively within such parishes: *Reg. v. Hull Dock Company*, 21 L. J. M. C. 153; 18 Q. B. 325; 16 J. P. 488.

Income tax is not a tax upon the subject matter rated which the tenant as such would be obliged to pay, but upon the net income of the tenant after paying the rent of the premises by which his profits are earned: *Reg. v. Southampton Dock Company*, 6 Rail. Ca. 428.

The Leith dock commissioners were held rateable to the poor, either to the whole extent of the docks and harbour revenue of 12,000*l.* a year, or none, and they could not be rated to the extent of 7,680*l.* only, (preference payments) on the ground that they had a beneficial occupation of that annual value: *Leith Dock Commissioners v. Scotland*, 24 L. T. 320. In Dom. Proc.

Quayage (or town-dues) is payable to the corporation of S. on all goods landed in S. harbour. Goods are landed on wharves, some public, in the occupation of the corporation; some private, in the occupation of lessees of the corporation, the toll being reserved to the corporation; and others, known as the B. wharves, and occupied by lessees. The corporation had no occupation at all except at the public wharves: held, that quayage was not a toll assessable to the poor rate: *Reg. v. Lewis*, 26 L. T. 58; S. C. *Lewis v. Swansea*, 25 L. J. M. C. 33; 5 E. & B. 508; 1 Jur. (N. s.) 1108; 20 J. P. 228.

It is not of itself a ground of exemption from poor rates, that the occupiers are trustees incorporated by statute for public purposes. It must appear from the statute to have been the intention of the Legislature that the funds derivable from their occupation should not be applied to the payment of poor rates: *Reg. v. Birkenhead Dock, Trustees of*, 21 L. J. M. C. 209; 2 E. & B. 148; 17 Jur. 162; 16 J. P. 551.

Where there is a permanent and profitable occupation of land within a parish by a floating pier, the same is rateable: *Greenwich v. Forrest*, 22 J. P. 130; S. C. *Reg. v. Forrest*, 27 L. J. M. C. 96; 4 Jur. (N. s.) 480; *Forrest, app.*, *Greenwich*, resp., 8 E. & B. 890.

The sea-shore is *primâ facie* extra-parochial, and therefore the onus of proving it to be parochial so as to be liable to poor rate in respect of some occupation of it lies on the parish officers. The evidence for such purpose will be, by analogy to that for showing the property in the soil of the shore not to be in the Crown, perambulations, common reputation, known metes and divisions, and the like. The occupiers of a pier, which commenced above high water mark, and extended continuously beyond low water mark into the sea, were assessed to the poor rate in respect of the whole pier. The parish officers gave no evidence to show that part of the shore under the pier between high and low water marks was in the parish: held, that the occupiers were only liable in respect of the part of the pier covering land above high water mark: *Reg. v. Musson*, 22 J. P. 95, 609; 23 J. P. 757; 4 Jur. (N. s.) 111; 27 L. J. M. C. 100; 8 E. & B. 900.

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Docks were managed by commissioners who were directed to apply the rates and dues as follows:—1. In payment of the expenses of working, managing, and maintaining the docks; 2. In paying the interest of money borrowed, and if at the expiration of five years there should be any surplus, it was to be applied in reduction of the rates and dues: Held (affirming the *Birkenhead Docks Case*, 2 E. & B. 148; 21 L. J. (N. S.) M. C. 219), that the docks were rateable: *Tyne Improvement Commissioners v. Chirton*, 28 L. J. M. C. 131; 23 J. P. 99; S. C. *Reg. v. Chirton*, 5 Jur. (N. S.) 865; and *Reg. v. Tyne Improvement Commissioners*, 32 L. T. 275. Decisions on
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Anchorage and beaconage tolls are rateable in all the parishes in which the port is situate and to which ships paying the toll come, in the proportion of the number of ships coming into each of the parishes respectively: *Reg. v. Earl of Durham*, 28 L. J. M. C. 232; S. C. *Bishopwearmouth v. Earl of Durham*, 1 L. T. (N. S.) 30; 5 Jur. (N. S.) 1306.

Coal duties not attached to or connected with the occupation of a dock are not rateable: *Ipswich Dock Company*, apps., *St. Peter, Ipswich*, resps., 7 B. & S. 311.

The dock estates of the Mersey Dock Company consist of docks, basins, piers, graving-docks, gridirons, wharves, quays, offices, buildings, &c.; locks, gates, bridges, roads, railways, cranes, engines, machinery, and other matters and conveniences requisite to form complete docks; and the trustees are authorized by various Acts of Parliament to receive and take certain sums of money, under the name of dock rates and duties, from vessels using the same: Held, that the dock company are not liable to be rated to the relief of the poor in respect of the docks, &c., the company holding them for the public benefit—the court being bound by the authority of *Rex v. Liverpool*, 7 B. & C. 61 (Erle, C. J., reserving a right to reconsider the question if raised hereafter in a court of error): *Mersey Docks and Harbour Board v. Jones*, 3 L. T. (N. S.) 212; 8 C. B. (N. S.) 114; 30 L. J. M. C. 185; 24 J. P. 742.

The point being raised in a court of error whether the case of *Rex v. Liverpool* was good law, and it being urged that a series of later cases showed it to be wrong in principle, it was held, that as it had been acquiesced in and acted on so long, and as Acts of parliament had been based upon it, it must be taken to have been recognized as law by the legislature, so far as the rateability of the Liverpool Docks was concerned; and that it could not now be questioned on any general principle of law: *Mersey Docks and Harbour Board v. Jones* (in error), 30 L. J. M. C. 239; 5 L. T. (N. S.) 184; S. C. *Mersey Docks v. Cameron*, 9 C. B. (N. S.) 812.

A beneficial occupation sufficient to render the occupier of property liable to be rated to the relief of the poor, means an occupation of property that yields, or is capable of yielding, a net annual value above the average annual cost of repairs, insurance, &c. The property need not be beneficial to the actual occupier, provided it be beneficial to some one. The Crown (occupying by itself or by its immediate servants), not being named in the statutes relating to the poor rate, is alone exempt; but mere trustees of charitable funds, though bound to apply the proceeds to certain specific purposes, are not exempt through having no personal interest in the premises. Therefore when property capable of yielding a net rent above what is required for its maintenance is sought to be exempted on the ground that it is occupied by trustees for public purposes, the public purposes must be such as are required and created by the government of the country, and therefore deemed for the use and service of the Crown. There is nothing in the words or the spirit of the 43 Eliz. c. 2, exempting the occupier of property from liability to be rated to the poor rate merely because the profits of the occupation are not to be enjoyed by him or by any one in whose

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behalf he is occupying, but are to be devoted to the benefit of the public. In the time of Lord Kenyon, if not in that of Lord Mansfield, and subsequently in the times of Lords Ellenborough and Tenterden, the courts con-founded occupation for what are called public purposes with occupation by the Crown, but these decisions are now overruled: *Jones v. Mersey Docks and Harbour Board*; *Mersey Board v. Cameron*, 12 L. T. (N. S.) 643 (H. L.); 11 Jur. (N. S.) 746 (H. L.); 35 L. J. M. C. 1 (H. L.); 20 C. B. (N. S.) 56.

The statutes which authorize assessments for the relief of the poor are silent as to the Crown; hence the Crown is not subject to be rated to the relief of the poor, either for property in its own actual occupation or for offices occupied for purposes of Government, as the Post Office, Horse Guards, Admiralty, &c. In the times of Lord Mansfield, Lord Kenyon, Lord Ellenborough, and Lord Tenterden, an opinion prevailed that property held for public purposes (though unconnected with the Crown, the State, or the Government) was exempt from poor rates. This opinion was shaken by Lord Denman, and was substantially overruled by Lord Campbell; but finally set at nought by the judgments of the House of Lords in the case of the *Mersey Docks* (*supra*) and *Clyde Navigation Trustees v. Adamson* (*infra*). Per the Lord Chancellor: We are all agreed that the principle of the *Mersey Docks* Case and that of *Clyde Navigation Trustees v. Adamson* are the same and not to be distinguished. Wherefore it was adjudged by the House of Lords that the Leith Commissioners were liable to be assessed for the relief of the poor in respect of their docks and harbours, as owners and occupiers of lands and heritages within the meaning of 8 & 9 Vict. c. 83, and 23 & 24 Vict. c. 48, not for their own use but exclusively for the benefit of the public: *Leith Harbour and Docks Comrs. v. Inspector of the Poor*, L. R. 1 Scotch App. 17.

Crown property, as well as property devoted to or made subservient to the Queen's government, is exempt from poor rate; but property held upon trust to create or improve docks and harbours in seaport towns, though having a public character, and though devoted to public purposes, is nevertheless subject to be rated to the relief of the poor: *Clyde Navigation Trustees v. Adamson*, 4 Macq. 931.

A dock Act gave commissioners power to remunerate themselves out of the dock funds for their services, and in the deductions to be made in the assessment of the dock, they claimed, under the head of "disbursements," a sum as "allowance for direction;" and another sum for watching, which was done by a police boat, provided and paid for out of other than dock funds. They also claimed, under the head of "moveable plant," a deduction for a steamboat used for towing barges, when filled with mud, out to sea and back; and under the head of "capital for carrying on the dock," for "cash balance," and for "stores in hand," and also a deduction for rates and taxes on the gross rateable value of the dock. With reference to these several claims it was held:—1. That the deductions for direction and watching, and for cash balance ought not to be allowed; 2. That the deduction for the steamboat was not allowable, while it was used only for the work of constructing the dock; but if it became necessary for permanent use in removing silt, it would be a deduction in future rates; 3. That the deduction in respect of stores on hand ought to be allowed; 4. That the allowance in respect of rates and taxes should be upon the net rateable value of the property, after the rates and taxes themselves have been deducted: *Reg. v. Tyne Improvement Commissioners*, 6 L. T. (N. S.) 489; 32 L. J. M. C. 192.

A person who has a mere license to use moorings on a river is not rateable in respect thereof. The conservators of the river Thames, to whom the moorings belonged, were held to be the rateable occupiers thereof: *Watkins v. Milton-next-Gravesend*, 32 J. P. 294; 37 L. J. M. C. 73; 18 L. T. (N. S.) 601; L. R. 3 Q. B. 350.

RATING DOCKS, HARBOURS, AND PIERS—continued.

A railway company were assessed to a poor rate in respect of the line of *Decisions on* railway, sidings, wharf and tips occupied by them. Certain trustees were *sect. 1.* in occupation of docks adjacent to the wharf and tips. A sum, part of the rateable value upon which the company were rated, was made up of the yearly value of wharfage rates which were to be paid to the trustees, under an agreement for a lease of the wharf to the company by the trustees. By this agreement, the company were to procure all the trade which they might bring for shipment, to be shipped at the docks: Held, that the company could not by such an arrangement with the trustees free themselves from liability to be rated in respect of the value of the hereditaments which they occupied, and that although the wharfage rates were not received by them, they must be taken into account as enhancing the value of the occupation: *Reg. v. Rhymney Ry. Co.*, 38 L. J. M. C. 75; L. R. 4 Q. B. 276; 10 B. & S. 198.

Appellants occupied two wharves, at a yearly rent, as tenants under the trustees of the Bute Docks. In respect of goods shipped from or upon the wharves, the appellants paid to the trustees a fixed sum, which by the Dock Act was authorized to be received in respect of all goods landed or loaded upon or from the wharves, in addition to the tonnage rates paid by the ships passing into or out of the docks. No dues were charged on goods brought upon the wharves and not shipped into the dock: Held, that the dues were paid in respect of the use of the wharves, and that in assessing the wharves to the poor rate, they were to be taken into account in ascertaining the rateable value, and that the appellants were liable to be rated in respect of them: *Reg. v. Dowlais Iron Company*, 10 B. & C. 208.

Certain harbour commissioners were held not to be the occupiers of the entrance to the harbour; their occupation of piers at the entrance to prevent the channel silting up, and their right to take tolls, were also held to be too remote to be connected for rating purposes: *Shoreham Harbour Crs. v. Lancing*, L. R. 5 Q. B. 489; 22 L. T. (N. S.) 434; 39 L. J. M. C. 121.

Tolls so connected with land, that the land is either necessary for their collection, or if the tolls are given as compensation for the use of land, the occupier of the land is in both cases rateable. If there be no occupation of the land, there is no rateability: *Faversham Navigation v. Faversham Union Assessment Committee*, 31 J. P. 309.

RATING FISHERIES AND RIGHTS OF SPORTING.

The lessee of fisheries within a river between certain limits within a manor bordering on the river, under an annual rent, is rateable for such fishery: *Rex v. Ellis*, 1 M. & S. 652.

Where the tenant of a farm pays an increased rent for the privilege of killing game on the farm, he is liable to be rated in respect of that increased value; and where the tenant originally took the farm without such privilege, but afterwards rented the privilege of shooting over a larger area, including the farm, at a certain rent: Held, that he was in the same position as if he had originally taken the farm with the privilege; and that his rate was properly increased by the sum which the sessions had found as the value of so much of the privilege as related to the farm: *Reg. v. Williams*, 23 L. T. 76; 5 Jur. (N. S.) 821.

Where the effect of an inclosure Act was to sever the right to game from the ownership of the soil, thereby making it an incorporeal hereditament, it was held that no one was rateable in respect of the game, although it enhanced the value of the land, and a revenue was derived from the sale of licences to shoot: *Hilton and Walkerfield v. Bowes*, 30 J. P. 325; L. R. 1 Q. B. 359; 14 L. T. (N. S.) 512; 35 L. J. M. C. 137; 7 B. & S. 223.

A tenant occupied land under an agreement that he was to have no right to the game upon it. He was assessed upon the land valued with the game;

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but it was held that he ought to be assessed as the occupier of land only, without a right to the game upon it: *i. e.*, at a lower amount than the value of the land, supposing the tenant to have a right to the game. (This case was, however, questioned in *Reg. v. Battle*, *infra*.) *Reg. v. Thurlstone*, 1 E. & E. 502; 5 Jur. (N. S.) 820; 32 L. T. 275; 28 L. J. M. C. 106

Where an owner in the occupation of his own underwoods demises the shooting over them at an annual rent: Held, that in estimating the reasonable value of the land in his occupation, the rent received by him for the shooting is to be taken into account as enhancing the rateable value: *Reg. v. Battle*, 15 L. T. (N. S.) 180; 8 B. & S. 12; L. R. 2 Q. B. 8; 36 L. J. M. C. 1; 12 Jur. (N. S.) 996.

RATING GAS WORKS.

A gas company were held not rateable for the profits of their trade in gas and coke, but for a sum equal in amount to that for which the premises would let to other persons willing to carry on the same business: *Rex v. Birmingham Gas Company*, 1 B. & C. 506; 2 D. & R. 735.

A gas company were held rateable in respect of the land occupied by their pipes laid in the public streets; and to the extent of the increased value of the land in consequence of its being used for the purposes of conveying the gas: *Rex v. Brighton Gas and Coke Company*, 5 B. & C. 466.

Where in a valuation a gas company were entered for their main pipes, and for the value at which the mains and pipes would let, and for the land occupied by the mains and pipes at the value of the land let for a pipeway. In certain houses in the parish there were steam engines and other machinery affixed to the houses. These houses were valued at what they were worth to let, without reference to the value which they derived from the engines, &c.: Held, that the valuation was bad: *Rex v. Birmingham and Staffordshire Gas Light Company*, 6 A. & E. 634; 6 L. J. M. C. 92.

Where companies were to apply any balance of profits arising from gas works, generally to the purposes of their Acts: Held that they were not rateable as beneficial occupiers of the gas works: *Rex v. Beverley Gas Company*, 6 A. & E. 645; 6 L. J. M. C. 84.

A gas company are rateable as occupiers of land in the different parishes by their apparatus, pipes, &c.; and are properly assessed upon the sum which a tenant would pay yearly for the apparatus, and deducting the average annual expense of renovating the same; but not profits of the trade, and deducting also the annual value of the apparatus and pipes lying in extra-parochial lands. The resulting amount is to be distributed among the assessments of the several parishes in proportion, not to the payments made for lights in the respective parishes, but to the quantity of land occupied by the apparatus in each parish: *Reg. v. Cambridge Gas Company*, 8 A. & E. 73; 3 Nev. & P. 262; 6 L. J. M. C. 50.

The following principle of rating was held to be unobjectionable:—Ascertain for what the hereditaments occupied by the company would let from year to year, the tenant paying tenant's rates, &c., and repairs, &c., so as to restore the hereditaments in the same state as they were in at the beginning, and securing to himself a fair profit for the skill and labour employed; taking into account also the receipts and disbursements of the company as an element in the calculation of the sum for which the hereditaments would let from year to year: *Reg. v. Cambridge Gas Light Company*, 33 L. T. 314; 23 J. P. 436.

In this particular case it was held, that as regards the principle of rating, the parochial principle was to be applied according to the decision in *Hampton v. West Middlesex Waterworks Company*, 1 E. & E. 716; 5 Jur.

RATING GAS WORKS—*continued.*

(N. s.) 1159; that if the proper allowance for expenses and for tenants' *Decisions on* profits, and interest on capital, had been made, and the proper value was *sect. 1.* put upon the stations, works, and buildings, &c., a proper mode had been adopted for obtaining the rateable value of the remaining property, as what was left after the allowances was the rent which an hypothetical tenant would give for the rent of the gas apparatus; and, lastly, that as regards the apportionment amongst the several parishes of the mains and pipes, part must be considered as directly, and part as only indirectly, contributing to the profits: *Sheffield United Gas Company*, apps., *Sheffield*, resps., 4 B. & S. 135; 9 Jur. (N. s.) 623; 8 L. T. (N. s.) 692; 27 J. P. 439; S. C. *Reg. v. Sheffield United Gas Light Company*, 32 L. J. M. C. 169.

A gas company was rated in respect of the following:—Meters soldered to the service pipes on the premises of consumers, but not fixed in any way so as to interfere with their removal; retorts or instruments for the production of gas, distinct and severable from the foundation or basement floor of the company's premises, but attached to the floor by hardened fireclay; "purifiers," or massive iron vessels standing on a brick base, but not fixed to it, though connected on one side with pipes passing through the soil from the retorts; steam engines, fastened by screw bolts to a stone base fixed in the soil, and capable of being detached by unscrewing the bolts; boilers set in brick-work fixed in the soil; gas-holders, or vessels of plate iron for storing gas, not fixed in any way, but placed so as to rise and fall in circular tanks excavated beneath the soil, and easily moved for the purpose of repairs. According to the practice and course of business in letting gas works, the tenant would have to take to and find capital for all the things above mentioned. On appeal from the Queen's Bench, held, that the retorts, purifiers, steam engines, boilers, and the moveable part of the gas-holders, appeared to be attached to the inheritance for the permanent improvement of it, and ought, therefore, to be included in the value of the premises for the purpose of rating; but that the meters must be excluded, as they could not be considered as part of the gasworks, and never were so attached to the house as to lose the character of chattels: *Reg. v. Lee*, 35 L. J. M. C. 105; 13 L. T. (N. s.) 704; 12 Jur. (N. s.) 225; L. R. 1 Q. B. 241; 7 B. & S. 188.

RATING GOVERNMENT PROPERTY.

Officers of Chelsea Hospital who have separate and distinct apartments in which they and their families reside, are rateable: *Eyre v. Smalpace*, 2 Burr. 1059; Cald. 3.

The royal palaces are not rateable, neither have they ever been rated. When a servant occupies a house and two acres of land, part of the royal domains, whether he pays for them by a rent or by service, it can make no difference as to his being rated; he is equally liable: *Rex v. Matthews*, Cald. 1.

The royal palaces are not rateable; but where the site of a palace is demised to a subject for a certain permanent interest, the grantee who occupies is rateable: *Duke of Portland v. St. Margaret's, Westminster*, Cald. 3, n.; Bott.; Wynn's Analysis, 60.

The ranger of a royal park is rateable as such for inclosed lands in the park yielding certain profits; but not for the herbage and pasturage which yields no profits: *Earl of Bute v. Grindall*, 1 T. R. 338.

Stables rented by a colonel of a regiment by order of the Crown for the use of the regiment, the colonel not using them or occupying them at all for his own horses, are not rateable. The possessions of the Crown or of the public are not rateable: *Lord Amherst v. Lord Sommers*, 2 T. R. 372.

Where the sessions found that the master gunner at Seaford was the

 RATING GOVERNMENT PROPERTY—continued.

Decisions on
sect. 1.

occupier of the Battery-house there, which was the property of the Crown, and from whence he was removable at pleasure, the court held that the fact of his being the occupier precluded any other question and fixed his liability to be rated: *Rex v. Hurdiss*, 3 T. R. 497.

The owner of stables rented by the colonel of a troop of horse by the authority of the Crown for the use of the troop was held liable to be assessed for the taxes leviable under a local Act: *Eckersall v. Briggs*, 4 T. R. 6.

Where the commanding officer in barracks had distinct apartments allotted to him, one in particular for transacting the business of the regiment and the others for himself and family who resided there with him, containing amongst others a kitchen, washhouse and coachhouse, together with a stable yard, and garden, it was held that he was rateable for the same, having a beneficial enjoyment of them beyond his necessary accommodation as an officer for the purpose of public service: *Rex v. Terrot*, 3 East, 506.

A canteen in barracks demised to B. by the barrack board for a year, at a rent of 15*l.* for the canteen and buildings, and also the further sum of 520*l.* for the privilege of using the same as a canteen, and selling therein provisions and liquors as usually sold by sutlers, with power of distress for the aggregate sum, was held to be one entire rent for the canteen, and therefore B. was held rateable in respect of an aggregate rent of 525*l.*, and not merely in respect of the rent of 15*l.*: *Rex v. Bradford*, 4 M. & S. 317.

The court will not grant a *mandamus* commanding the commissioners of woods and forests to pay a poor rate in respect of lands held by them under the Crown: *Ex parte Reeve*, 5 Dowl. Rep. 668.

The occupiers of apartments in Hampton Court Palace are rateable in respect of their occupation, but not the husband of the housekeeper of the palace: *Reg. v. Ponsonby*, 11 L. J. M. C. 65; 3 Q. B. 14; 1 G. & D. 713.

The Royal Academy of Arts were not rateable for the apartments they occupied in the National Gallery, there being no beneficial occupation apart from the purposes of the institute. They were the mere agents of the Crown for furthering the national and public object for which the property of the Crown was employed: *Reg. v. Shee*, 12 L. J. M. C. 53; 4 Q. B. 2; 7 J. P. 209.

A normal and model school established and principally supported by government, was held liable to be rated to the relief of the poor: as there was no substantial difference between the institution and any other establishment in which cheap education was offered through the bounty of the founder: *Reg. v. Temple*, 21 L. T. 114, Q. B.; 22 L. J. M. C. 129; 2 E. & B. 160; 17 Jur. 572; 17 J. P. 488.

The treasurer of the County Court, under 9 & 10 Vict. c. 95, is not liable to be rated to the relief of the poor in respect of the occupation of a building used exclusively for transacting the business of the County Court: *Reg. v. Manchester*, 22 L. T. 241; 23 L. J. M. C. 48; 18 Jur. 267; 3 E. & B. 336; 18 J. P. 218.

No part of the Museum of Practical Geology is rateable; on the ground that the whole is in the exclusive possession of the Crown for public purposes: *De La Beche v. St. James, Westminster*; 24 L. J. M. C. 74; 3 W. R. 161; 19 J. P. 180; 1 Jur. (N.S.) 375; 24 L. T. 210.

Certain premises were leased to the postmaster-general for the purposes of a post-office, and were exclusively occupied for such purposes. The rent was paid out of the post-office revenues. On a screen fronting the counter in the room used for sorting are separate open boxes or pigeon-holes, each distinguished by a different number, used for the reception of

RATING GOVERNMENT PROPERTY—*continued.*

letters addressed to persons or firms at Birmingham. Every such person or firm had his letters sorted into one of these boxes, and had them delivered at the post-office upon their being called for; and paid a gratuity of from one to two guineas per annum to the post-office for the accommodation, which payments were appropriated to the public revenue. The postmaster sold stamps on behalf of the post-office, for which he received a commission, and which on an average amounted to about 200*l.* a year. The postmaster was rated in respect of his occupation of the post-office premises as above-mentioned: Held, that this was a case of property in the hands of the Crown by its servants, and applied exclusively to public purposes, and therefore that the appellant was not rateable: *Reg. v. Smith*, 21 J. P., *n.*, 276, 694; 26 L. J. M. C. 105; 3 Jur. (n. s.) 769; 7 E. & B. 483; 29 L. T. 76.

*Decisions on
sect. 1.*

Certain persons holding offices of trust under the Crown were required, for the due discharge of their public duties, to occupy premises, the property of the Crown, appropriated respectively to the holders of such offices. Each of them had more accommodation than he required for his personal use, or for the discharge of the necessary duties of his office: Held, that the excess did not take away immunity in respect of the part reasonably necessary for the due discharge of the duties or his personal use, but that for all beyond what was so necessary, the liability to be rated existed. In ascertaining what is necessary, regard is to be had to the rank and degree of the officers; and when the duties require permanent residence, accommodation for a wife and family is not to be deemed unreasonable: *Semble*, per Erle, J., a merely trifling excess does not constitute a liability: *Reg. v. Stewart*, 22 J. P. 480; 27 L. J. M. C. 81; 8 E. & B. 360; 4 Jur. (n. s.) 187; *Reg. v. Edwards*, 22 J. P. 480; 4 Jur. (n. s.) 187; 27 L. J. M. C. 81; *Reg. v. Lake*, 22 J. P. 480; 4 Jur. (n. s.) 187; 27 L. J. M. C. 81; *Reg. v. Stainsby*, 22 J. P. 480; 8 E. & B. 360; 27 L. J. M. C. 81; 4 Jur. (n. s.) 187; *Reg. v. Breton* and *Reg. v. Foster*, 22 J. P. 480; 8 E. & B. 360; 27 L. J. M. C. 81; 4 Jur. (n. s.) 190.

An adjutant having charge of militia stores, and occupying for that purpose premises provided for such stores, is rateable in respect of such occupation so far only as he has a use of them exceeding what is necessary for himself and family, taking into account his station in life: *Reg. v. Fuller*, 8 E. & B. 365; 3 W. R. 478.

The secretary of war granted a licence to use certain premises for several years for the purpose of making gas therein to supply the camp at Aldershot—the licensor to be at liberty to enter at all times, and the licence to be revocable on giving a written notice—the licensee to repair and yield up the premises, but who was declared in express terms not to be the tenant of the premises. He being rated as the occupier or tenant was held properly so rated, though called a licensee, he being substantially a tenant: *Reg. v. Stevens*, 29 J. P. 597; 12 L. T. (n. s.) 491.

One whose house was occupied partly as an inland revenue office, and partly as his place of residence, and for his own business, was held to be the beneficial occupier of the whole house, and liable to be rated in respect of such occupation; and not entitled to any deduction by reason of part of the benefit being derived from payments made to him by servants of the Crown for privileges given to them in that capacity; nor to any deduction in respect of the room which he himself occupied as a distributor of taxes: *Smith v. St. Michael, Cambridge*, 7 Jur. (n. s.) 24; S. C. *Reg. v. Smith*, 30 L. J. M. C. 74; 3 L. T. (n. s.) 687.

The commissioners of Her Majesty's woods and forests were held, by the Court of Exchequer Chamber, affirming the decision of the court below, 37 L. J. M. C. 25; L. R. 3 Q. B. 141; 17 L. T. (n. s.) 643, not

 RATING GOVERNMENT PROPERTY—*continued*.

Decisions on liable to be rated for a bridge over the Thames, the only occupation being
sect. 1. by the Crown or by the commissioners, as servants of the Crown, acting
 — for and on behalf of the Crown: *Reg. v. McCann*, 37 L. J. M. C. 123;
 L. R. 3 Q. B. 677; 9 B. & S. 33; 19 L. T. (N.S.) 115.

RATING LIGHTHOUSES.

Tolls of a lighthouse are not rateable, because being raised all over the Kingdom they are not to be considered as locally related to the parish: *Rex v. Rebot*, Loft. 77; Cald. 155, 351.

The tolls of a lighthouse situated in township T., which were collected out of the township in the several ports at which the vessels passing by the coast afterwards arrived, are not rateable *quâ* tolls in township T.: *Rex v. Teignmouth*, 12 East, 46.

Duties payable in respect of a lighthouse not constituting part of the annual profits of the house or land where the light is placed, are not rateable: *Rex v. Coke*, 5 B. & C. 797; 8 D. & R. 666.

The proprietor of a lighthouse was entitled, under letters patent, to toll for ships passing; such tolls, not arising from the building, are not rateable: *Rex v. Fowke*, 5 B. & C. 814.

Blackburn, J.: I think it is pretty clear the lighthouse is rateable. The quantum we cannot tell. Though no tenant would take the lighthouse, nevertheless the commissioners, in order to earn their dues, found it very desirable to put up a lighthouse to induce vessels to come in, and so enhance their revenue, and therefore the lighthouse is a beneficial thing. The sessions must see what is the value of the occupation of the lighthouse, taking it to be of value on that account. It depends very much on the position of the spot of land, though the land, as I understand it, belongs to the commissioners, so that there is no rent actually charged. The real question is, if this bit of land belonged to another person, what would be the fair rent to be given by the commissioners for that land for another purpose, taking it from another person. If a person had the monopoly of all the towers all round he might exact a higher rent, but if, as it is probable it does not belong to one person, and there are different spots of land, it would come to be what would be a fair rent to be given for a spot of ground of this kind. Probably it would be something more if it was where there was building ground, than the fair interest on the expense of building the lighthouse. It is for the sessions to say what it should be. I do not suppose it will be very large, but they will say what, and that much is rateable. It is clear neither harbour dues, ballast dues, nor goods dues are *per se* rateable; but every one of these may enhance the value of the rateable property within the parish; if it does do so, then that property should be rated at the value which is so enhanced. As to the ballast, wharf, and cranes, it appears clearly enough that these are dues for carrying away the ballast which would give a value, and they are agreed on what that rateable value should be. Then comes the harbour dues, and it is clear these are in no way connected with the occupation of any property, but are in gross. Any ship that enters within certain limits of the port has to pay a rate. It is in no way connected with the occupation. The mooring posts are no doubt in the occupation of the company, and if the occupation of these is essential to earning the harbour dues, doubtless they would be rateable. They are not so. Nothing seems to be charged in respect of the rent of these, and nothing has been stated to show any value at all; but the harbour dues on which arises the principal question, are in gross, and the goods dues are still more clearly so. The

RATING LIGHTHOUSES—*continued.*

goods dues are paid by any ship that comes in and discharges on any ground not in the occupation of the company. Those are not rateable. *Decisions on sect. 1.*
 The result is, that on part of the case the rate should stand or should be reduced to the amount which the parties have agreed upon. The lighthouse, unless the parties do agree, they must estimate upon the principle that has been stated, and as to the other part the parties are not rateable at all. Mr. Manisty: I should mention to your lordships, at the end of the case it says your lordships are to say how the costs are to be dealt with, because it says, "as to the costs such costs as the court should adjudge." Blackburn, J.: Our general rule is, in a matter of this sort, as Lord Campbell used to say, where each side is said to be beaten, and consequently there is no victor, there will be no costs. The general rule would be, where there is a successful party, the successful party gets costs, but where each party is beaten, or if you prefer it, where each party is victorious, then the general rule would be, unless there is something to take it out of the rule, that neither side gets costs: *Blyth Harbour Dock Company v. Tyne-mouth Union*, MS.

RATING MACHINERY.

A house and engine for carding cotton which are rented as one entire, subject and described as "an engine-house," are rateable: *Rex v. Hogg*, 1 T. R. 721; Cald. 266.

Where steam-engines and other machinery are affixed to houses, the houses must be valued with reference to the value which they derive from the steam-engines and machinery, and not merely at what the houses are worth to let without reference to the engines and machinery: *Rex v. Birmingham Gas Light Company*, 6 A. & E. 634; 6 L. J. M. C. 92.

In a rate laid upon buildings to which machinery is attached, the real property ought to be assessed according to its actual value as combined with the machinery, without considering whether the machinery be real or personal property: *Reg. v. Guest*, 2 N. & P. 663; 7 A. & E. 951; 7 L. J. M. C. 38.

On land adjoining buildings attached to the freehold and used for chemical works, walls of brickwork inclosing large oblong spaces were erected, some of them on foundation walls, and some on the level of the soil. The inclosures were filled with sand, and in the sand contained by each of them a leaden chamber of large dimensions, erected in a frame of wood riveted to the chamber by leaden rivets, and attached to a wooden sill running round the top of the rail, was placed. At each end of the chamber was inserted a pipe, round which the lead of the chamber was beaten and luted so as to make it vapour tight for the purpose of conveying vapour and gases into and out of the chamber. Both pipes were at the extremity fixed to buildings that were part of the freehold, and could be removed at pleasure without injuring the freehold. If the pipes were withdrawn the chambers might by the application of sufficient force, be lifted from the yard without displacing any part of the freehold: Held, that the additional advantages attendant on the use of the buildings by reason of the chambers ought to be taken into account in estimating the rateable value of the buildings: *Reg. v. Haslam*, 17 Q. B. 220; 15 J. P. 642.

In certain silk manufactories which were rated to the poor rate, machines were driven by water and steam power, and there were a water-wheel and steam-engine which communicated motive power by means of main shafting and driving gear to each floor in which the silk machines stood. The machines were fixed to the floor by iron screws which were used only for the purpose of steadying the machines when in use, as they were lighter than those used in other similar factories. In assessing the manufactories,

RATING MACHINERY—continued.

Decisions on it was held that though the steam and water power and the main shafting
sect. 1. were rateable, yet the machines were not to be included in the rateable value :
—— *Reg. v. Halstead*, 32 J. P. 118.

Cotton spinning machines, which were fixed by screws, some into the wooden floor and some into lead which had been poured in a melted state into holes in the stone for the purpose of receiving the screws, were held never to have become part of the freehold, and to be distrainable for rent : *Hellawell v. Eastwood*, 20 L. J. Exch. 154. See also *Selby v. Graves*, 19 L. T. (N. S.) 186.

The doctrine laid down in *Hellawell v. Eastwood* (6 Exch. 295 ; 20 L. J. Exch. 154,) is inapplicable to the question whether machines fixed by an owner of the soil passed to a mortgagee of the freehold ; and in the particular case all those machines which were fixed in a *quasi* permanent manner, viz. by screws or bolts, or soldered with lead to the floor, roof, or side walls, passed to the mortgagee by the mortgage and conveyance, while all those which were merely moveable articles passed under a bill of sale : *Longbottom v. Berry*, 39 L. J. Q. B. 37.

In Ireland an assessment for poor rate cannot be made in respect of detached machinery, although it be within the walls of a building, and profitably used to increase the beneficial occupation of the building. Personal property is not rateable in Ireland, and therefore no rate is maintainable that would include the profits arising from it with the profits arising from the use of the building : *McMaster v. Banbridge Union*, 4 Ir. Law R. (N. S.) 394.

Cylinders and coolers for charcoal burning purposes are part of the fixed machinery, and therefore form part of the rateable value of the premises which are rateable : *Reg. v. Brinjes*, 35 J. P. 116, 456.

The Metropolitan Board of Works were held not liable to be rated in respect of land occupied by a main sewer and embankment ; but they were to be rated in respect of a pumping station, building and works, at the value for which the same would let to a hypothetical tenant from year to year, supposing they were not used for the purposes of the main drainage scheme, but were entirely disconnected therefrom, and applied to any other use or purpose for which they could be made available by a tenant thereof : *Metropolitan Board of Works v. West Ham*, 40 L. J. M. C. 20 ; L. R. 6 Q. B. 193 ; 23 L. T. (N. S.) 490.

RATING MARKETS.

The lessee of a stall in a market is not rateable to the poor in respect of such stall : *Holledge's Case*, 2 Ro. Rep. 238.

The profits of a fair are not liable to be rated : *Rex v. Brograve*, 4 Burr. 2491 ; Cald. 155.

All the cases where persons have been held rateable in respect of the occupancy or receipt of tolls (apart from the question of inhabitancy) have been where they at the same time occupied real visible property connected with such tolls in the place where they were rated : *Rex v. Nicholson*, 12 East, 330.

The lessee of market tolls in gross, not incident to the soil, is not rateable in respect of his occupancy thereof : *Rex v. Bell*, 5 M. & S. 221.

The owner of a market held in a public street, in respect of which he took tolls, there being no stalls fixed to the ground, was held not to be the occupier of a tenement within the meaning of a local Police Act, and therefore not rateable in respect of the profits of the market : *Rex v. Mosley, Bart.*, 2 B. & C. 226 ; 3 D. & R. 385.

The lessee of toll traverse and of a toll-house which he occupies is not

RATING MARKETS—continued.

rateable for the tolls but for the toll-house only: *Rex v. Snowden*, 4 B. & Ad. Decisions on 713. sect. 1.

Where a market Act limited the rates to be levied, and a subsequent Act for extending the market did not incorporate the two Acts, and though there never were any surplus revenues, the additional market was held rateable at its full rateable value, according to 6 & 7 Will. 4, c. 96, s. 1: *Reg. v. Badcock*, 6 Q. B. 787; 9 J. P. 114; S. C. *Reg. v. Taunton Market Trustees*, 14 L. J. M. C. 58; 9 J. P. 245.

Stallage is a payment made in respect of the exclusive use and occupation of the soil of a market for a time, and is therefore properly included in the rate; but market tolls on things sold in the market and fairs having no connection with the exclusive use of the soil are not rateable: *Roberts app., Aylesbury, resp.*, 22 L. J. M. C. 34; 1 E. & B. 423; 20 L. T. 219; 17 J. P. 55.

Unless the provision made by an Act for the way in which the tolls are to be applied amounts to a prohibition to provide for the poor rate, such rate is to be paid in respect of the same. A corporation in possession of the land, with the right of taking tolls, are *prima facie* liable: *Worcester v. St. Clements*, 22 J. P. 319.

RATING MINES, QUARRIES, AND PITS.

Lead mines are not rateable, for the words of 43 Eliz. c. 2, s. 1, are "coal mines," and do not mention any other kind of mines, and that is equal to an express exception or exclusion of all other mines: *Lead Smelting Company v. Richardson*, 3 Burr. 1341; Cald. 155, 331.

The lessee (under the Crown) of lead mines, is rateable for the profits arising from lot and cope, which are duties paid by the adventurers without risk on the part of the lessee: *Rowls v. Gells*, Cowp. 451; 1 Doug. 304.

A person entitled to toll tin and farm dues (which toll is a certain portion of the tin gotten) is liable to be rated in respect thereof: *Rex v. St. Agnes*, 3 T. R. 480.

The lessee of a coal mine is rateable though he derive no profit from the mine: *Rex v. Parrott*, 5 T. R. 593.

Lime works are rateable in the hands of the occupier though the profits be uncertain: *Rex v. Alberbury*, 1 East, 534.

A slate work (or as improperly called a slate mine) is rateable: *Rex v. Woodland*, 2 East, 164.

Ironstone mines are not rateable; and being rated conjointly with coal mines, the coal whereof was raised by the owner of the lands for his own use in smelting the iron ore, the order of sessions confirming the rate generally, without ascertaining the proportion at which each was rated, was quashed: *Rex v. Cunningham*, 5 East, 478.

Where a coal mine, becoming unproductive, ceases to be worked, the lessee is no longer liable to be rated for it, although he be still bound by his covenant to pay the rent reserved to his landlord. *Aliter*, where the mine is itself productive, although it be worked at a loss by the lessee after deducting the proportion of the gross value of the produce reserved to the owner: *Rex v. Bedworth*, 8 East, 387. But, *per* Blackburn, J., with reference to *Rex v. Bedworth*, 8 East, 387, "that has ceased to be law:" *Staley, app., Castleton, resp.*, 10 Jur. (N. S.) 1149.

The occupier of a clay pit is rateable: *Rex v. Brown*, 8 East, 528.

An owner not resident within the parish having leased lead mines and other minerals with liberty to the tenants to dig, and reserving a certain

 RATING MINES, QUARRIES, AND PITS—continued.

*Decisions on
sect. 1.*

annual rent and also certain proportions of the ore which should be raised, is not assessable to the poor rate for such certain rent: *Rex v. Rochester, Bishop of*, 12 East, 353.

The lessees at a yearly rent under the lord of the manor of lot and free share of all calamine stones or lapis calaminaris, raised within the manor, are liable to be rated to the poor as occupiers of land in the parish where the manor lies; none of them being resident in the parish: *Rex v. Baptist Mill Company*, 1 M. & S. 612.

Trustees under the will of a person seized in fee of two-thirds of a manor subject to certain leases to a company of adventurers of mines of lead, tin, and copper ore, and other minerals under the quarry, &c., of the manor, at a certain rent, are not rateable for such rent; and a rate in which they were so rated, and also in respect of their being owners and occupiers of the moors, &c., within the manors, was held to be bad: *Rex v. Wellbank*, 4 M. & S. 222.

A reservation to the owner of a lead mine of a share of the lead to be smelted from the ore is in the nature of rent, and therefore not rateable: *Rex v. Earl of Pomfret*, 5 M. & S. 139.

Where the indenture of lease of a tin mine contained a power either for payment to the lessor in ore or the amount thereof in money, it was held that the lessor was liable to be rated as an occupier of land, the reservation operating as an exception out of the demise, and not being of the nature of a rent: *Rex v. St. Austell*, 5 B. & Ald. 693; 1 D. & R. 351.

Limestone quarries, the working of which is a mere privilege, and which are not in the exclusive occupation of the persons getting the stone, such persons are not rateable for them: *Rex v. Trent and Mersey Navigation*, 4 B. & C. 57; 6 D. & R. 47.

An engine erected and used solely for drawing water from an ironstone mine is part of the mine itself, and not rateable: *Rex v. Bilston*, 5 B. & C. 851; 8 D. & R. 734; but see *Talargoch Lead Mining Company v. St. Asaph*, *infra*.

The owner and occupier of coal mines is rateable at the sum for which the mine would let subject to out-goings; and the lessee of such mines is rateable for the amount of royalty or rent which he pays, and in neither case is any allowance to be made for money expended in rendering the mines productive: *Rex v. Attwood*, 6 B. & C. 277; 9 D. & R. 328.

A lessee of a coal mine, being the occupier, having erected a steam engine for working the mine, and thereby improving its value, is rateable for such improved value: *Rex v. Granville*, 9 B. & C. 188; 4 M. & R. 171.

The express mention of coal mines in 43 Eliz. c. 2, s. 1, is a virtual exclusion of all other mines, and consequently other mines are not rateable to the poor rate: *Rex v. Sedgley*, 2 B. & Ad. 65.

Limestone mines which are worked by means of shafts in the same manner as coal mines, are not rateable: *Ib.*

Clay pits which are worked by means of shafts in like manner as coal mines, are not rateable: *Rex v. Brettel*, 3 B. & Ad. 424.

An owner of the soil who has granted adventurers liberty to dig, mine, work, and search for manganese, for twenty-one years, and the same to be taken, &c., rending him £1 15s. for every ton weight of manganese raised during the term, is not an occupier of any portion of the soil, and is consequently not rateable: *Rex v. Tremayne*, 4 B. & Ad. 162; 1 N. & M. 194.

Coal mines below land allotted under an inclosure Act to another parish, are rateable in the parish in which they are actually situated, as they were before the inclosure, though the allotments became rateable elsewhere: *Rex v. Pitt*, 5 B. & Ad. 565.

RATING MINES, QUARRIES, AND PITS—*continued*.

Whether any excavation in the earth be a mine or not depends upon the mode in which it is worked and not on the substance obtained from it. *Decisions on sect. 1.*
 The sessions are to apply that fact, and find whether it is a mine or not:
Rex v. Dunsford, 2 A. & E. 568; 4 Nev. & M. 349; 4 L. J. M. C. 59;
 1 Har. & W. 93.

A stratum of coal lay in parishes A. and B. and was worked in both, but all the coal was brought to bank by a shaft in A. It was held that the owner could not be assessed in A. for coal gotten in B.: *Rex v. Foleshill*, 2 A. & E. 593; 4 Nev. & M. 360; 4 L. J. M. C. 63; 1 Har. & W. 71.

A grant to enter and search for tin, paying a toll on the gross value of all tin gotten, was held to be good, and not a colourable demise, at least of the tin tolls, the sessions not having found fraud; the toll was a reserved rent and not a virtual share of the produce of the mine, and therefore not rateable. Tolls received in kind are rateable: *Reg. v. Crease*, 11 A. & E. 677; 9 L. J. M. C. 38; 3 P. & D. 434.

Toll tin payable in the ore by custom to the Duke of Cornwall by the mining adventurers is rateable in the hands of his lessee, although such lessee does not reside within the parish in which the mine is situated: *Crease v. Sawle*, 11 L. J. M. C. 62; 2 Q. B. 862, in error from Q. B.

The owner of certain lands and mines therein demised for years all the lead mines, and veins of lead and other ores, saving to himself a right of entry to view, the lessees yielding, &c., a full fifth of all the lead or other ore from time to time gotten by them, well cleaned, &c., to be delivered clear of all deductions: held that the lessor was rateable in respect of the ore delivered to him under the demise: *Reg. v. Todd*, 10 L. J. M. C. 14; 12 A. & E. 816; 4 P. & D. 335.

The owner of a mere unused licence to work clay pits is not an occupier of them liable to be rated; but he is liable to be rated for the pits in a parish in which he actually works them: *Reg. v. Foyle*, 20 J. P. 263; 27 L. T. 64.

The appellants, for the purpose of working the machinery connected with a lead mine, diverted a stream from its natural course, paying the owners for such diversion, and paying certain small sums for the occupation of the land by the watercourse; the court held that the appellants were rateable in respect of the occupation of the watercourse at the value of the land enhanced by its capability of conveying water, and that it was not exempt from rateability by reason of its connection with a lead mine, though that is not rateable under 43 Eliz. c. 2, s. 1. (In this case *Rex v. Bilston*, 5 B. & C. 851, was discussed and questioned): *Talargoch Lead Mining Company, apps., St. Asaph Union*, resps., L. R. 3 Q. B. 478; 18 L. T. (N. S.) 711.

Ironstone mines are not rateable to the poor rate under 43 Eliz. c. 2, s. 1; coal mines being the only mines mentioned in the statute: *Crawshay v. Morgan*, L. R. 4 Q. B. 581; affirmed in the H. L. in *Morgan v. Crawshay*, where in an action by the defendant, the galee of iron-stone mines in the Forest of Dean, against the plaintiffs, the overseers of the parish of East Dean, for having seized the defendant's goods as a distress for a poor rate: Held (affirming the judgment of the Court of Exchequer Chamber), first, that the defendant was an occupier and not a mere licensee of the mines, the statute 24 & 25 Vict. c. 40, s. 1, having enacted that a galee of those mines shall be deemed to confer "an interest of the nature of real estate" on the grantee; secondly, that iron-stone and all other mines, except coal mines, were exempt from liability to the poor rates under 43 Eliz. c. 2, s. 1: *Morgan v. Crawshay*, 24 L. T. (N. S.) 889; 35 J. P. 596; 40 L. J. M. C. 202; L. R. 5 Eng. and Ir. App. 304.

Land occupied under an agreement by a person with the right to search

 RATING MINES, QUARRIES, AND PITS—*continued*.

Decisions on for and dig coprolites, was held to be in the exclusive occupation of such person, who was accordingly rateable in respect of his occupation: *Roads v. Trumpington*, L. R. 6 Q. B. 56; 40 L. J. M. C. 35; 23 L. T. (N. S.) 821.

Where a coal mine is worked at a loss, and though the landlord draws a rent for it, yet as no tenant would take it at a rent from year to year, it is not rateable, as there is nothing to rate. The rent then ceases to be the rule of rating. If the rent be incommensurate with the profit of the working, then a hypothetical tenant must be supposed: *Reg. v. Haigh*, M. S. (E. T. 1870, Q. B.)

RATING PUBLIC BUILDINGS.

Lands, &c., purchased by subscription and conveyed to trustees for the purposes of a lunatic asylum, were held rateable, as they produced a profit. Also that the trustees who were the owners and in actual receipt of the profits were the persons liable to be rated: *Rex v. St. Giles, York*, 3 B. & Ad. 573.

The justices of Worcestershire, as a body, were held not liable to be rated as occupiers of the judges' lodgings: *Reg. v. Worcestershire J.J.*, 11 A. & E. 57; 9 L. J. M. C. 17; 3 P. & D. 8.

The governor of a gaol is not rateable for a house and garden which he occupies within the walls of the gaol, nor are the matron and turnkeys for their dwellings, nor the justices for parts of the gaol where the prisoners are employed, and whose employment yields a profit: *Reg. v. Shepherd*, 1 Q. B. 170; 10 L. J. M. C. 44; 4 P. & D. 534.

The occupation by the Corporation of London of Bethlem Hospital and Bridewell Hospital is for public purposes only, and not a beneficial occupation; and they were held therefore not rateable under a local Act for the relief of the poor: *Reg. v. St. George-the-Martyr*, 16 L. J. M. C. 129; 10 Q. B. 852; 11 J. P. 615.

An infirmary for sick persons, supported by voluntary contributions, was held to be a "public building" within the meaning of a local Act, and as such rateable to the poor rate: *Bedford Infirmary v. Bedford Commissioners*, 7 Exch. 768; 21 L. J. M. C. 229.

Three houses situated beyond the actual wall of a county gaol, but within its precincts, were appropriated to the use of the governor and of two of the wardens of the gaol respectively, and they inhabited these houses solely as officers of the gaol. The house of the governor had an internal communication with the gaol, but the other houses had no communication with it, except by means of the principal entrance of the gaol: Held, that the occupier of each of these houses was exempt from liability to be assessed to the poor rate, on the ground that the houses were virtually part and parcel of the gaol: *Bedfordshire J.J. v. St. Paul, Bedford*, 7 Exch. 750; 21 L. J. M. C. 228; 16 J. P. 552.

Dartmoor prison is not rateable, nor the quarters of the governor and other officers of the prison within the prison; but those outside the prison are rateable, as well as a canteen and grocer's shop in connection with the prison, coach-house and stables of the governor, and also a farm which was profitably occupied and cultivated by the convicts: *Gambier v. Lydford*, 23 L. J. M. C. 69; 23 L. T. 69; 3 E. & B. 346; 18 J. P. 456.

A local board of health is rateable in respect of their occupation of a yard as a place of deposit for stones and other materials for the repair of the roads: *Reg. v. Cooper*, 18 Jur. 899; 23 L. J. M. C. 183; 23 L. T. 231; 2 Com. L. R. 1480; S. C. *Reg. v. Hull J.J.*, 4 E. & B. 29.

The University of Oxford must be judicially regarded as a national institution, erected for the advancement of religion and learning through the

 RATING PUBLIC BUILDINGS—*continued*.

nation; and is not liable to be rated to the relief of the poor in respect of *Decisions on* land or buildings occupied by it solely for those public purposes. Such are *sect. 1.*
 the Bodleian Library; the Divinity and other schools; the Convocation House and Apodyterium; the Old Convocation House and Law School; the Sheldonian Theatre, the use of it as a concert room being merely occasional and exceptional; the Ashmolean Museum, except the lower part, occupied as a residence by the reader in mineralogy; the Clarendon buildings; the Botanic Garden; the Taylor Institution; and the University galleries. But the University is rateable in respect of a cellar under the Sheldonian Theatre, occupied by a private individual for his own benefit, though without payment of rent. So the residences of the professor, the porter and the head gardener at the Botanic Garden, and the land appropriated to the use of the latter; and the residence of the librarian at the Taylor Institution so far as the same is referable to private convenience, and not to public duty, are rateable: *Reg. v. Oxford University*, 29 L. T. 343; 8 E. & B. 184; 27 L. J. M. C. 33; 21 J. P. 644; 3 Jur. (N. S.) 1249.

The colleges, being institutions of a more private character, are liable to be rated in respect of their chapels and libraries: *Ib.*

A building was used as a district police station for county constabulary. A sergeant of constabulary and his wife and two constables resided on the premises. The sergeant occupied the living-room, scullery, pantry, and one bedroom. The two constables took their meals in the constables' day-room, and had each one bedroom. The constables were required to reside on the premises for the purposes of the constabulary, and the accommodation provided for them did not exceed what was necessary for their degree in life: Held, that there was no beneficial occupation of the premises, and therefore no liability to poor rate: *Stretford v. Lancashire JJ.*, 1 E. B. & E. 225; 31 L. T. 116; 22 J. P. 705; 4 Jur. (N. S.) 1274.

A house appropriated to the use of the chaplain of a county lunatic asylum is not within 16 & 17 Vict. c. 97, s. 35, as the chaplain, though required by the visitors, was not required by the statute to be resident. A residence so appropriated to the medical superintendent is, however, within the enactment, as he is required by s. 55 of 16 & 17 Vict. c. 97 to be "resident in the asylum;" and therefore a separate house, but conveniently situated near the other buildings, with garden and reasonable accommodation for a man of his education and position, is assessable only at the lower value: *Congreve v. Upton*, 33 L. J. M. C. 83; 10 Jur. (N. S.) 538; 4 B. & S. 857; 9 L. T. (N. S.) 684.

A reformatory school, established according to 17 & 18 Vict. c. 86, 18 & 19 Vict. c. 87, and 20 & 21 Vict. c. 55, is in the nature of a gaol, and is not liable to be rated: *Sheppard v. Bradford*, 33 L. J. M. C. 182; 10 L. T. (N. S.) 42; 10 Jur. (N. S.) 799; 16 C. B. (N. S.) 369.

Buildings occupied for the county police and the county assize courts, being in the occupation of the Crown for public purposes, are exempt from rateability to the poor rate according to the principle recognized in the *Mersey Docks Case*, 11 H. L. Ca. 443. *Per Mellor, J.*—It would make no difference if the buildings were held for the use of the local police, who are paid out of the county rate: *Reg. v. St. Martin, Leicester*; *Reg. v. Castle View, Leicester*, 6 B. & S. 536; 36 L. J. M. C. 99; 16 L. T. (N. S.) 625; 31 J. P. 493.

Where justices were empowered by statute to provide courts, judges' lodgings, &c., and to provide the use of the buildings for any lawful purpose for such consideration as they might think proper, but so as not to interfere with the use of the buildings and premises for the purpose primarily contemplated, and they allowed the Corporation of Manchester to use part

 RATING PUBLIC BUILDINGS—*continued.*

Decisions on
sect. 1.

of the buildings for the city quarter sessions, and for the city court of record at an annual rent of £900, they were held rateable in respect of the part so let off, though the sum of £900, together with all sums received for the use of the buildings, was insufficient to defray the average annual expenses of maintenance and management: *Lancashire, JJ., apps., Cheetham, resp.*, 37 L. J. M. C. 12; 3 L. R. Q. B. 14; 31 J. P. 739; 8 B. & S. 548.

A cottage was let to the chief constable of a county as a yearly tenant, which he underlet to one of the county constabulary, as long as he continued such constable, or until he should be removed to another district, determinable upon a week's notice. The constable being assessed to the poor rate as occupier of the cottage, appealed; and it was held that he was properly rated, there being nothing in the nature of the occupation to create exemption: *Reg. v. Bridgehouse*, 20 L. T. (N. S.) 658.

The buildings of the Edinburgh University, "being national or public property, or dedicated to national or public purposes, and for the occupation of which no revenue was derived," were held, notwithstanding, by the House of Lords to be rateable: *Greig, app., University of Edinburgh, resps.*, L. R. 1 Scotch Appeals, 348.

The Metropolitan Board of Works constructed a sewer, a portion of which passed through the respondent parish in an earthen and concrete embankment above the level of the adjoining land, at an average height of 21 feet; this embankment and sewer being rated to the poor rate, it was held, in accordance with *Reg. v. Metropolitan Board of Works*, L. R. 4 Q. B. 15; 19 L. T. (N. S.) 348, that as there was no beneficial occupation, the property was not rateable: *Metropolitan Board of Works v. West Ham*, L. R. 6 Q. B. 193; 40 L. J. M. C. 15; 23 L. T. (N. S.) 490; 35 J. P. 230.

RATING RAILWAYS.

If A. has an exclusive right of using a way-leave over land which he holds in common with B., paying B. a certain sum yearly, and has the privilege of using a way-leave occupied by C., paying him so much per ton for the goods carried over it, A. is not to be rated in respect of either of such way-leaves: *Rex v. Joliffe*, 2 T. R. 90.

A. granted to B. a lease for years of way-leaves, for the purpose of carrying coals, and the liberty of erecting bridges, and levelling hills over certain lands; B. made the waggon ways and enclosed them, thereby excluding all other persons, erected bridges, and built houses on the lands for his servants. It was held that B. was liable to be rated to the poor, for "the ground called the waggon way": *Rex v. Bell*, 7 T. R. 598.

A railway company are rateable for their lands improved in value by the profits accruing from the railway, and at an amount equal to the rent which a lessee would pay, making the same use of the railway as the company did, with the deduction of tenants' rates and expense of repairs, and other charges mentioned in 6 & 7 Will. 4, c. 96, s. 1. That statute did not in this respect introduce any new principle of rating. An estimate of the company's liability, founded on the amount chargeable in respect of tolls, and excluding the receipts for carriage of passengers and goods, is enormous: *Reg. v. London and South Western Railway Company*, 1 Q. B. 558; 11 L. J. M. C. 93; 2 G. & D. 49; 2 Railway Ca. 629; 6 Jur. 686.

The land must be rated in any particular parish according to the actual value there, although such value may be owing in a great measure to station, houses, and other works not within the parish: *Id.*

The rate in any particular parish is to be estimated by the amount of profit actually earned in the parish, and not by the proportion which the length of railway in that parish bears to its entire length: *Id.*

RATING RAILWAYS—*continued.*

A railway company are rateable at an amount which a tenant from year to year might reasonably be expected to pay for the railway, &c., exclusive of the stations (which were separately rated) assuming him to have the same power of using the railway as the company, and to have the same privileges; *i. e.*, upon the net annual value of the railway; and not upon an estimate of the gross produce of the land which the company, if not carriers, or which a lessee of the tolls, rates, and duties would in fact have received as lessee, howsoever or by whomsoever the carrying business of the railway might be carried on: *Reg. v. Grand Junction Railway Company*, 4 Q. B. 18; 13 L. J. M. C. 94; 8 Jur. 508; 1 N. S. C. 303; 8 J. P. 310.

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The rateable value of the occupation of a railway is properly calculated by deducting from the gross receipts, first a sum per cent. for interest of the capital actually invested in movable carrying stock; for tenants' profits and costs; for depreciation of stock; for working expenses; for rent of stations; a mileage allowance for renewing and reproducing. The question of amount is one for the sessions; but no deduction ought to be made in respect of goodwill: *Reg. v. Grand Junction Railway Company*, 13 L. J. M. C. 94; 4 Q. B. 18, 41.

The Great Western Railway Company were the owners and occupiers of a railway. They were also the occupiers of two branch railways which they rented. They were carriers for hire upon the three railways, and used the whole as one concern. The main line passed through the parish of T. in which the company were rated on the following principle:—

The gross receipts on the three lines were added together, and these were divided by the total number of miles on the three lines; the expenses on the three lines, which were allowed as deductions from the rateable value under 6 & 7 Will. 4, c. 96, s. 1, were also added together and divided by the total number of miles as before; the expenses on the number of miles in T. on the above calculation were then subtracted from the receipts on those miles, and after making allowance for interest on the plant or movable stock, and for tenants' profits, including profits of trade, the assessment was made upon the residue.

This assessment was appealed against, and the following further deductions were claimed:—

1. For stations and other erections appurtenant to the main line, and the two branch lines, and necessary for the profitable enjoyment of them; but which are rated or rateable separately from the railway, and none of which are in the parish of T.

2. In addition to an allowance for "maintenance of way," a deduction in respect of depreciation and wear and tear of rails and sleepers, being the solid timber and iron work of the Great Western Railway alone. No fund had been set apart for these repairs; but the expense had been theretofore taken from the capital, and not from the revenue.

3. A deduction of the £5 per cent. interest on the outlay expended in forming the Great Western Railway Company, obtaining their Act of Parliament, raising their capital, and other expenses.

4. Income-tax paid by the company in pursuance of 5 & 6 Vict. c. 35, amounting in the whole to £10,000.

5. Additional parochial assessments not paid, but which will be payable in consequence of the decisions of the court on rating railways.

6. The annual total loss on the two branch lines.

The propriety of these deductions being submitted in a case for the opinion of the court, it was held,—

That a further deduction was to be made in respect of the stations and

 RATING RAILWAYS—*continued.*

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sect. 1.*

other buildings under the first item; and also in respect of the fourth item; as far as the income-tax imposed related to occupation; but not in respect of the other items: *Reg. v. Great Western Railway Company*, 15 L. J. M. C. 80; 6 Q. B. 179; 4 Rail. Ca. 42; 10 J. P. 57.

In ascertaining the tenants' profits the rate on a railway company had been made on a calculation of the percentage on the original value of the movable stock; but the sessions found that at the time of the rate being made, the value had decreased. Under these circumstances the court held, that the percentage ought to be taken on the decreased value: *Reg. v. Great Western Railway Company*, 15 L. J. M. C. 80; 6 Q. B. 179; 4 Rail. Ca. 42; 10 J. P. 57.

The mode of ascertaining the tenants' profits in order to their deduction from the rateable value of the railway is a question for the sessions, and involves no question of law: *Reg. v. Great Western Railway Company*, 15 L. J. M. C. 80; 6 Q. B. 179; 4 Rail. Ca. 42; 10 J. P. 57.

In assessing a railway company to the poor rate, the proper method is to ascertain, upon the principles of the 6 & 7 Will. 4, c. 96, s. 1, what are the earnings of that particular portion of the line which is the subject of the rate, and from thence to deduce the rent at which that particular portion of the line might be reasonably expected to let to a yearly tenant, having the same powers and advantages as the company. A mileage division of the profits upon the whole line is an incorrect mode of ascertaining the proportion belonging to each parish, unless every portion of the line is equally profitable, or unless the mileage principle be adopted by consent: *Reg. v. London, Brighton and South Coast Railway Company*; *Reg. v. South Eastern Railway Company*; *Reg. v. Midland Railway Company*; 4 N. S. C. 511; 20 L. J. M. C. 140; 15 Q. B. 313; 6 Rail. Ca. 474; 15 J. P. 240.

In ascertaining the rateable value of any portion of the line of railway the railway company is entitled to a reasonable deduction from their annual profits in respect of the depreciation by wear and tear of the permanent way, even though no expenses have been actually incurred in counteracting that depreciation, and although no funds have been set aside by the company for the renovation of the permanent way when it shall become necessary: *Ib.*

By agreement between the London and Birmingham Railway Company and the South Eastern Railway Company, the traffic of the latter was to pass free over a certain portion of the line of the former, in consideration of the traffic of the former passing free over a certain portion of the line of the latter. A certain distance of the line of the appellant company within the respondent parish was affected by this arrangement. No part of the South Eastern Railway Company was within the parish. It was held that this was the same in substance as if so many tickets were daily issued, without money paid for them, by the South Eastern Railway Company in return for no money received, the tickets mutually transferred representing so much money earned; these savings being subject to the same deductions as if they were received in money; so that in estimating the rateable value of the London and Birmingham Railway Company, they were entitled to deduct the value of the tolls payable by them in respect of the passage of their traffic over an equal portion of the South Eastern line: *Ib.*

In a rate made in November, the railway company were assessed upon the last known rateable value of the subject of the rate; the last accounts of the railway company showing the state of their affairs in the June preceding, having been published in the August preceding the making of the rate. Between the months of June and November the rateable value of the subject of the rate suffered from diminution. The court held, that although this would not have warranted the quashing of the rate, yet, that

RATING RAILWAYS—*continued.*

the facts being proved upon appeal, the sessions ought to have amended *Decisions* on the rate according to the true value of the property at the time that the *sect. 1.* rate was made: *Id.*

The Great Western Railway Company was assessed to the poor rate of T., in respect of two miles and a half of railway, a portion of a branch line which was originally constructed as an independent railway, but was afterwards incorporated with the Great Western Company, and was worked by them as part of their entire railway. A certain number of engines and carriages, and a separate staff of officers and servants were appointed to the branch. No separate account of receipts and expenditure was kept in respect of the branch as distinguished from the rest of the railway. The branch could be worked as a separate railway under independent management, but at a greater cost, and with a larger movable stock. It was found that the actual expenses of the company were not in the proportion of the actual gross receipts, either on the branch or throughout the entire railway, nor were either such gross receipts or such expenses at one uniform rate per mile throughout the entire railway. The parties were agreed on the gross annual receipts, and in order to ascertain the rateable value of the entire railway the company claimed:—

In addition to annual allowances for the repairs of the permanent ways and of the removable stock, to deduct specific sums for their ultimate renewal and reproduction; this deduction was held allowable.

In order to ascertain the rateable value of the two miles and a half in T., the deductions from the gross revenue ought to be distributed on the parochial principle, by ascertaining what expenses are incurred in earning the gross receipts on the two miles; but this does not preclude a consideration of expenses wherever arising locally, which are necessary for keeping the subject of rate at the value which is the measure of the assessment. Where such expenses apply equally to every mile of a railway, it is a convenient and allowable mode to arrive by a mileage division at the proportional part to be assigned to the miles in any particular parish.

The company in ascertaining the rateable value of the two miles and a half in T., claimed to separate the branch from the rest of the railway, as to all the expenses, except a small portion of the general expenses of the entire railway, and to divide the expenses of the branch thus separated on the mileage principle. It was held, that under the circumstances of the case, they could not thus separate the branch from the rest of the railway, and consider it as a distinct whole.

The parish claimed to assess the two miles and a half in T., in the ratio which the annual receipts in T. bore to the gross annual receipts of the entire railway; but it was held that the facts found in the case precluded such an apportionment of the expenses, and that the mode contended for by the parish could not be adopted: *Reg. v. Great Western Railway Company*; *S. C. Great Western Company v. Tilehurst*, 21 L. J. M. C. 84; 15 Q. B. 379, 1085; 16 J. P. 164.

Where an order of sessions assessed a railway not according to its value as used for a railway, but according to the value of the adjoining land which was greater, the order was quashed: *Reg. v. Manchester South Junction and Altrincham Railway Company*, 15 Q. B. 396, *n.*

That which is not an earning of the branch railway, nor money paid by way of rent for the use of the branch, or springing from the profits of the occupation, but a payment arising from a collateral contract of guarantee, in case the profits of the occupation should fall short of a certain amount, should not be taken into account in fixing the rateable value: *Newmarket Railway Company v. St. Andrew the Less, Cambridge*, 23 L. J. M. C. 76; 23 L. T. 87, 172; 3 E. & B. 94; 18 Jur. 572; 18 J. P. 343.

The rent or annuity substituted by the last Act of Parliament, was

 RATING RAILWAYS—*continued.*

*Decisions on
sect. 1.*
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held not to be the sole criterion from which the rateable value of the part of the line in the parish was to be deduced, but was only evidence liable to be rebutted by other circumstances: *Reg. v. South Eastern Railway Company*, 22 L. T. 330; 23 L. J. M. C. 84; S. C. *South Eastern Railway Company v. Dorking*, 3 E. & B. 491; 18 Jur. 673; 18 J. P. 182.

Held, also, that the value of a line as a feeder to the main line of the railway was to be taken into account in estimating the rateable value: *Ib.*

The Royston and Hitchin line of Railway had been leased to the Great Northern Railway Company at the rent of £12,000 per annum. An extension of it was subsequently made to Shepreth, and by an arrangement between the Great Northern and the Eastern Counties Companies the line was transferred to the Eastern Counties Company, at a rent of £16,800 per annum. Taken by itself the line was worked at a loss, but it was valuable as contributing to the gross earnings of the Eastern Counties Railway. The sessions found that the Eastern Counties Company were tenants of the Royston and Hitchin line at a rent of £16,800, and held that such rent was to be taken as the basis of the rateable value—but the court held that the sessions were wrong; for that they were bound to exercise their judgment as to how far the fact that there was no profit arising on the line would affect the sum which a tenant would give: *Reg. v. Eastern Counties Railway Company*, 18 Jur. 679.

By an agreement between the North London Railway Company and the London and Brighton Railway Company (forming together a continuous line), it was stipulated that the former should be at liberty to convey such of their passengers as had taken tickets for the entire distance, over the line of the latter, paying for each passenger a certain sum by way of toll to the latter company. Held, that in estimating for the purposes of a poor rate the gross receipts earned by the North London Railway Company, in respect of portions of their line running through different parishes, the company were at liberty to deduct such sums as had been received by them and paid over to the London and Brighton Company in pursuance of the agreement; and that the residue, after such deduction, was the rateable value of the line: *Reg. v. St. Pancras*, 9 Jur. (N. S.) 1102; 8 L. T. (N. S.) 273; 3 B. & S. 810; 32 L. J. M. C. 146.

In fixing the value of the railway, the sums paid for tolls to another company, on passenger traffic passing over their line in other parishes, should be deducted, as they form no part of the profits of the company: *Reg. v. St. Pancras*, 8 L. T. (N. S.) 273; 9 Jur. (N. S.) 1102; 3 B. & S. 810; S. C. *North London Railway Company v. St. Pancras*, 32 L. J. M. C. 146; 27 J. P. 358.

In assessing a railway company in respect of the portion of their line passing through a parish, and in respect of station, buildings, and sidings, an allowance must be made for interest on capital and tenants' profits, calculated with reference to the actual value of the rolling stock at the time the rate is made. A deduction should be allowed in respect of such machinery and furniture as are movable, such as office and station furniture; none should be allowed in respect of such things as were so attached to the freehold as to become part of it; and in respect of such things as, though capable of being removed, were yet so far attached as that they were intended to remain permanently connected with the railway, or the premises connected with it, and to remain permanent appendages to it, as essential to its working, no deduction should be allowed. In determining the rateable value of a railway, one question to be considered is, whether on the whole capital employed a greater delay would occur in realizing the returns than is ordinarily incidental to the employment of capital. Also in

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assessing the company, a deduction ought to be allowed in respect of stations, buildings, and sidings along the line of railway, such deduction being calculated on the actual value at which they ought to be assessed: *Decisions on sect. 1.*
Rushton Spencer v. North Staffordshire Railway Company, 3 L. T. (N. s.) 554; 30 L. J. M. C. 68; 4 Jur. (N. s.) 363; S. C. *Reg. v. North Staffordshire Railway Company*, 24 J. P. 821; 30 L. J. Q. B. 128.

A railway company, the sole owners of a station, in 1848 entered into an arrangement by deed, with the Northern Company, by which the latter were, for 999 years, to have the joint use of part of the station, and the exclusive use of another part, on certain stipulated terms. In consequence of a subsequent falling off in their traffic, the station became of less value to the Northern Company, and the real present value to them was much below the sum actually paid under the agreement:—held, on a case in which the appellants were to be deemed the persons rateable for the whole occupation of the station, that they were assessable on the full amount which they received from the Northern Company: *Reg. v. Fletton*, 3 L. T. (N. s.) 689; 25 J. P. 100; 30 L. J. M. C. 89; 7 Jur. (N. s.) 518; 3 E. & E. 450.

A railway company entered into agreements giving other companies the use of their line for a long term, and an annual payment, but keeping part of the traffic in their own hands, doing the repairs, paying the servants, and receiving a rent for a crossing on the line:—held, that the agreements showed that the company had not parted with the possession, and therefore that they were liable to be rated in respect of their occupation of the railway: *Leeds, Bradford, and Halifax Railway Company v. Armley*, 25 J. P. 711.

In rating a railway company the stations on the line must be treated as indirectly contributing to the profits, and consequently as being liable to be rated as land and buildings, the value of which is to some extent enhanced by their capacity of being employed in connection with the line of railway: *Reg. v. Eastern Counties Railway Company*, 9 Jur. (N. s.) 1339.

Sums set apart from the gross earnings as “terminal charges,” are to be considered as part of the general earnings, and not of the particular stations. In calculating the amount of the gross earnings and expenses of the line in a parish, the terminal charges must be included: *Eastern Counties Railway Company v. Great Anwell*, 8 L. T. (N. s.) 419; 9 Jur. (N. s.) 1339; S. C. *Reg. v. Eastern Counties Railway Company*, 32 L. J. M. C. 174; 4 B. & S. 58.

By the Stockton and Darlington Amalgamation Act, 1858, the company were empowered to take a toll not exceeding 2d. a ton upon certain goods passing through the Shildon tunnel. This toll the company did not take, upon the ground that if they did take it, the carriage of the goods would be altogether lost to them. The company being rated to the poor rate in respect of this toll:—held, that as the toll was not in fact taken, it could not be assessed to the poor rate: *Reg. v. Stockton and Darlington Railway Company*, 8 L. T. (N. s.) 422; 27 J. P. 518.

A railway company were the sole owners of a railway station, and in 1848, by an agreement by deed, another company were for 999 years to have exclusive use of part of the station and joint use of another part at a certain sum per annum. The occupation of the station afterwards became of much less value than the annual sum to be paid under the deed:—held, that the effect of the deed (as regarded the part of the station jointly occupied) was only to give a right to the joint occupation, and that the company, who were the sole owners, were rateable as the sole occupiers of this part of the station, and that in rating them for such occupation the sum paid by the other company must be considered as part of the profits: *Reg. v. Lord Sherard*, 33 L. J. M. C. 5; 33 L. T. 72.

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sect. 1.*

Where the branch line of a railway ran into the main line, and was leased to the company, the proprietors of the main line, at a fixed rent, and the traffic on the branch line yielded no profit whatever with reference to the branch itself, but such traffic passed over the main line and contributed considerably to the traffic and profit of the main line, it was held that the proprietors of the main line, as occupiers of land in the parishes through which the branch line ran, were liable to be rated, not merely with respect to the earnings of such branch lines in such parishes, but in respect of the value to them as bringing a profit to their main line: *London and North Western Railway Company v. Cannock*, 9 L. T. (N. S.) 325; 28 J. P. 181.

Under the powers of an Act, a railway was constructed from G. to C. for the common purposes of the G. W. Company and the M. Company, each paying half of the cost; on completion the half of the railway nearest G. became the sole property of the M. Company, and the half nearest C. the sole property of the G. W. Company. Each company was bound to keep its own half in repair and supply the staff of officials, &c., necessary on that half for the traffic of both companies. The railway was constructed for broad and narrow gauge, with three rails on each line, and in practice the G. W. Company used the broad gauge, and the M. Company the narrow, so that of the three rails one was used in common and one exclusively by each company. The traffic of the M. Company far exceeded that of the G. W. Company. Upon this state of facts it was held, that there was no rateable occupation by the M. Company of the G. W. Company's half of the railway, but only an easement, and that the M. Company were, therefore, not rateable in a parish through which that part of the railway passed; and, *semble*, that the G. W. Company were rateable for their half of the railway in respect of the value of the occupation as enhanced by the profits made over it by the M. Company: *Midland Railway Company v. Badgworth*, 34 L. J. M. C. 25; 11 Jur (N. S.) 14; S. C. Reg. v. *Midland Railway Company*, 11 L. T. (N. S.) 303.

A railway which runs through several parishes should be rated in each parish upon the parochial principle; that is, according to the actual earnings in each parish only; and it is incorrect to add to such earnings any profits arising from increased traffic upon other parts of the line: *Great Eastern Railway Company v. Haughley*, 14 L. T. 548; 35 L. J. M. C. 229; L. R. 1 Q. B. 666; 12 Jur. (N. S.) 596; 7 B. & S. 624.

In making an allowance for depreciation of rolling stock it is correct to allow an annual sum for repairs, upon a calculation of the number of years such stock would last: *Ib.*

Under the powers of an Act a railway was constructed from G. to C., for the common purposes of the G. W. R. Company and the M. R. Company, each paying half of the cost; on the completion of the line the half nearest G. became the sole property of the M. Company, and the half nearest C. the sole property of the G. W. Company. Each company was bound to keep its own half in repair, and supply the necessary staff of officials, &c. The line of railway was constructed for broad and narrow gauge traffic, with three rails on each line, and in practice the G. W. Company used the broad gauge, and the M. Company the narrow. The part nearest C., belonging to the G. W. Company passed through the respondent parish, and that company were rated to the poor rate in respect of the occupation. No toll was paid by either company in respect of the right of running over the part belonging to the other company. The G. W. Company were held rateable, and it was also held that the rate ought to be made on the principle of assessing the profits made in the parish, enhanced by the right to run free over the half of the line belonging to the M. Company: *Great Western Railway Company, apps., Badgworth, resp.*, 36 L. J. M. C. 33; L. R. 2 Q. B. 251.

RATING RAILWAYS—*continued*.

In assessing to the poor rate of a parish a branch line of railway, which branch is leased to the owners of a main line into which it runs, the parish authorities are not entitled to take into consideration the value of the line to such owners of the main line in addition to the net profits as derived from the traffic passing through the parish (affirming *Great Eastern Railway Company v. Haughley*, L. R. 1 Q. B. 666; 35 L. J. M. C. 229): *Reg. v. Llantrissant*, 20 L. T. (N. S.) 364; 38 L. J. M. C. 93; L. R. 4 Q. B. 354; 10 B. & S. 328. *Decisions on sect. 1.*

Under statute the S. U. Railways and Canal Company granted a lease in perpetuity of their undertaking to the L. and N. W. R. Company, under the provisions of which a canal, part of their undertaking, was worked and managed by a joint committee, in the name of the S. U. Railways and Canal Company, and was worked by the L. and N. W. Railway Company, and the latter company made up to the shareholders of the former company the deficiency in the earnings of their undertaking, in accordance with the guarantee in the lease of the payment of certain rents or sums of money in the nature of rent. Held, that the canal rent or sum of money received by the S. U. Railway Company for the L. and N. W. Railway Company under the lease was not to be taken into account in determining the rateable value of the canal: *Reg. v. Lapley and the Penkridge Union Assessment Committee*, 9 B. & S. 568.

A railway company were assessed to a poor rate in respect of their line of railway, sidings, wharf, and tips occupied by them. Certain trustees were in occupation of docks adjacent to the wharf and tips, and the sum of £2720, part of the rateable value upon which the company were rated, was made up of the yearly value of wharfage rates, which were to be paid to the trustees under an agreement for a lease of the wharf to the company by the trustees. By this agreement the appellants were to procure all the trade which they might bring for shipment to be shipped at the docks. The practice was that the appellants' contractor furnished to the trustees monthly accounts of the quantities of goods shipped at the wharf, and the trustees collected the rates from the freighters or consignees, and applied them to the purposes of the trust. It was held that the appellants could not by such an arrangement with the trustees free themselves from liability to be rated in respect of the value of the hereditaments which they occupied, and that although the wharfage rates were not received by them, they must be taken into account as enhancing the value of the occupation: *Reg. v. Rhymney Railway Company*, 38 L. J. M. C. 75; 10 B. & S. 198.

Railway sleepers are substantially an addition to the freehold, and give an additional value to the land. They are, therefore, properly included as an item of value in the assessment: *Great Western Railway Company v. Melksham*, 34 J. P. 102, 692.

The proper mode of making the deduction from the gross annual value of a railway is, not by following the mileage principle, but by taking the actual outlay in the particular parish; and this item is not to be varied by what may be the state of things in other parishes along the same railway: *London and North Western Railway Company v. King's Norton*, 34 J. P. 102.

Declaration by the House of Lords, reversing the decree below, that the provisions of local Acts of 1836, exempting the Dundee and Arbroath and Arbroath and Forfar Railways from poor rates, were in effect abrogated by the General Poor Law Act, 1845, and by the General Valuation Lands Act (Scotland), 1854: *Duncan v. Scottish North Eastern Railway Company*, L. R. 2 Scotch Appeals, 20.

A railway company, not being the owners of land through which pipes supplying their premises with water were laid (the highway), were held not

RATING RAILWAYS—*continued.*

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rateable for such pipes, though they possessed rateable property within the same parish: *London and North Western Railway Company v. Giles*, 33 J. P. 776.

The S. railway passed through several parishes, in some of which were coal mines, which caused a larger expenditure in maintaining the permanent way; in other parishes through which it passed there were no coal mines. The parish of H. had no coal mines in it. Held, that in assessing at the assessable value of the railway in H. the proper deduction for expense of permanent way was the expense in H., regardless of the average cost along the whole line of railway: *London and North Western Railway Company v. Harborne*, 34 J. P. 644.

Where a railway company under their Act were liable to make good the deficiency in the assessment for rates in respect of lands of which they had taken possession, it was held that the company were bound to make good the deficiency until the whole railway and works authorized by their Act were completed, and that the deficiency was to be computed according to the rental at which the lands taken with any buildings thereon were rated at the time of the passing of the Act: *Reg. v. Metropolitan District Railway*, 40 L. J. M. C. 113.

RATING STOCK IN TRADE AND SHIPS.

The most reasonable way of taxing land is according to a pound rate; and where personal estate is taxed, it ought to be in the same proportion as lands, viz., the value of every £100 per centum per annum: *Dalton's Justice*, 253.

An uninterrupted usage under 43 Eliz. c. 2, to rate stock in trade in a parish establishes that the holders of it are liable to be assessed for it in such parish: *Rex v. Rodd*, Cald. 147; *Rex v. Hill*, Cowp. 613.

A farmer is not liable to poor rate for his stock on the land; but a tradesman is liable for his stock in trade: *Rex v. Barking*, 2 Ld. Raym. 1280.

But if a farmer keep a larger flock than is necessary for his farm, he shall not under that pretext avoid being taxed as an inhabitant: 16 Vin. Abr. 426.

Personal property yielding a certain annual permanent profit is rateable within 43 Eliz. c. 2, s. 1; but the property must be visible, and ascertained, not casual, fluctuating, and uncertain: *Rex v. Canterbury JJ.*, 4 Burr. 2014; *Rex v. Ringwood*, Cowp. 326; 4 Burr. 2290.

Personal property, to be capable of being rated, must be local visible property within the parish: *Rex v. Andover*, Cowp. 550, 618; 2 Bl. Rep. 709; 5 Burr. 2634; Cald. 150.

The court would not determine so general a question as to whether all stock in trade is rateable: *Rex v. Whitney*, 5 Burr. 2634; 2 Bl. Rep. 709; Cowp. 565, 618; Cald. 149, 150.

Stock in trade of the property of the person in possession and productive is rateable: *Rex v. Darlington*, 4 T. R. 468.

Ships are rateable in the parish to which they belong; so is stock in trade; but household furniture is not, neither is money, whether at interest or not; nor the pay of officers in the navy or merchant ships; nor the salaries of officers of the customs, or of merchants' clerks: *Rex v. White*, 4 T. R. 771; Nol. 112; and *Rex v. Liverpool*, 8 East, 455, n.

Where the sessions quashed a rate because A. and B. were not rated for their stock in trade, and stated that they did so because it was not proved at the sessions whether it belonged to A. and B., or whether it produced profit; the court quashed the order of sessions: *Rex v. Dursley*, 6 T. R. 53.

RATING STOCK IN TRADE AND SHIPS—*continued*.

Stock in trade is rateable to the poor rate, when its value can be clearly ascertained; and every person is to be rated according to the present value of his estate, whether that value has or has not been increased by his own improvements: *Rex v. Mast*, 6 T. R. 154. *Decisions on sect. 1.*

Under a local Act for rating persons to the relief of the poor in Norwich, for lands, &c., stock, and personal estates in the parish, and money out at interest, such persons were not liable to be rated for government stock or funds which are no more than perpetual annuities, the principal of which can never be recalled by the holder from the government, though redeemable at the pleasure of the latter: *Rex v. Maddermarket*, 6 East, 182.

The owners of packet boats employed under a personal contract with the post-master in carrying mails, &c., between Holyhead and Dublin, are liable in respect of the profits arising to them from the carriage of passengers and luggage, to be rated for the same in the parish of Holyhead, where such owners reside, and from and to which the boats sail, where they are repaired, and where the passage-money is in part receivable and is collected, though the boats are registered in another place: *Rex v. Jones*, 8 East, 451.

Silk throwsters, working up in their mills silk of their employers, are not liable to be rated for such silk as their stock in trade: *Rex v. Sherborne*, 8 East, 537.

Though the sessions find that certain persons in a township were possessed of visible stocks in trade there, and were personally liable to be rated in respect thereof, if by law such property were liable to be rated, yet if they also state that they were not satisfied from the evidence offered before them that there was any surplus profits on such stocks by which they could amend a rate which omitted them, that concludes the question: *Rex v. Macdonald*, 12 East, 324.

Stock in trade is rateable, notwithstanding it has never been rated in the parish, unless there be some circumstances to take it out of the general rule; but on an appeal against the rate on the ground that A. is not rated for his stock in trade, the sessions ought to have amended the rate, and not quashed it: *Rex v. Ambleside*, 16 East, 380.

The owners of a coasting vessel were held liable to be rated in respect of the profits accruing therefrom in the parish where they themselves resided, and where the vessel was registered, and the cargoes usually received and delivered, and freight paid, although at the time of making the rate the vessel was not actually within the parish; but not if the vessel was never actually within the parish, though the profits were there received by the owners: *Rex v. Shepherd*, 1 B. & Ald. 109.

An Act made all personal property rateable, whether the owners were or were not resident in Hull; consequently, persons not resident in Hull, but having stock in trade there, which had produced a specified profit during the last year; and owners and part owners of ships registered at Hull, and trading to and from that port, and within it at the time a rate is made, are rateable: *Rex v. Hull Dock Company*, 3 B. & C. 516; 5 D. & R. 359.

Partners who did not reside in the parish where their business was carried on were held not rateable in that parish in respect of their stock in trade: *Rex v. North Curry*, 4 B. & C. 955; 7 D. & R. 424; *Rex v. Fryer*, 4 B. & C. 961, *n*.

Where only one of several partners was resident in a parish, it was held, that he could not be rated in respect of more than his share of the partnership *personal* property: *Rex v. Gosse*, 7 B. & C. 60; 9 D. & R. 759.

The 6 & 7 Will. 4, c. 96, s. 1, does not alter the law as to the rateability of personal property; therefore a rate made after that statute, omitting

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RATING STOCK IN TRADE AND SHIPS—*continued.*

stock in trade, which yielded a profit in the parish, was quashed on appeal: *Reg. v. Lumsdaine*, 10 A. & E. 157; 8 L. J. M. C. 69; 2 P. & D. 219.

On the authority of *Reg. v. Lumsdaine*, stock in trade was held liable to be rated in *Reg. v. Bridgwater*: 8 L. J. M. C. 72.

Now see statute 3 & 4 Vict. chap. 89.

RATING TITHES.

A parson is liable to be rated for his glebe and tithes, though he may have let them out at a certain rent; and for tithes in his own occupation: *Rex v. Turner*, 1 Str. 77; 1 E. & Y. 734.

Tithes are a tenement, and were not rateable where the poor were provided for in another manner than under the 43 Eliz. c. 2, s. 1: *Rex v. Skingle*, Str. 100.

A parson who lets his tithes to the parishioners is rateable for them, for the letting is but an agreement with the parishioners to retain the tithes, and the parson has a modus: *Reg. v. Bartlett*, 16 Vin. Abr. 427.

Where the parson agrees that the tenant shall retain the tithes, yet the tax must be upon the parson: *Rex v. Lambeth*, 1 Str. 525; 1 E. & Y. 788.

A sum of money made payable annually by the owners of land in lieu of tithes by Act of Parliament, with a clause of distress annexed, is liable to be rated to the poor rate: *Lowndes v. Horne*, 2 W. Bl. 1252.

A rectory was held to be included in the word "tenement," so as to render the parson rateable to the poor rate under a local Act: *Powell v. Bull*, 2 W. Bl. 1254; Comyns, 265; 1 Eagle & Yo. 733.

Parochial assessments for the vicar of a parish under an Act of Parliament may or may not be rateable: *Rex v. Toms*, 1 Doug. 401.

Payments in lieu of tithes settled under a compromise between a parson and parish, and confirmed by statute, are rateable to the poor: *Rann v. Pickin*, Cald. 196; 1 Doug. 406, n.

Fish are titheable by custom; and the proprietors of such tithes are liable to be rated: *Rex v. Carlyon*, 3 T. R. 385; 2 E. & Y. 539.

A yearly payment or corn rent directed by statute to be made in lieu of tithes "free and clear of all rates, taxes, and deductions whatsoever," is not rateable: *Chatfield v. Ruston*, 5 Dowl. & R. 695; 3 B. & C. 863.

Where by statute tithes were extinguished, and in lieu thereof certain annual corn rents issuing out of lands in the parish were substituted, payable quarterly with a power of distress and sale to enforce payment, the money when paid is rateable in the hands of the rector: *Rex v. Boldero*, 4 B. & C. 467; 6 D. & R. 557.

Where an inclosure Act directed that all great tithes payable to the rector of the parish should be extinguished, and that the commissioners should ascertain the net value of such tithes, and affix a fair clear annual rent or sum of money per acre in lieu of such tithes, and as an adequate compensation for the same to the rector; it was held that the rector was in respect of such rents rateable to the repair of the highways: *Rex v. Lacy*, 5 B. & C. 702; 8 D. & R. 457.

By an inclosure Act it was provided that a corn rent "free from all taxes and deductions whatsoever, except the land tax," to issue out of the lands inclosed, should be paid to the rector in lieu of great and small tithes, &c., and this corn rent was held not liable to be rated to the poor rate: *Mitchell v. Fordham*, 6 B. & C. 274; 9 D. & R. 335.

A., being lessee of tithes, compounded for them with the respective occupiers by parole agreements, under which they retained the tithes accruing on their respective lands to their own use with the remaining nine parts from which no severance took place. The tithes were not bar-

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gained and sold when at maturity, but the agreements were prospective, and had no reference either to any specific mode of cultivating the lands, or to the amount of produce in any particular year. The composition money was paid half-yearly. Held, that the lessee was an occupier of tithes within the meaning of those words in the Highway Acts, and liable to be rated as such: *Chanter v. Glubb*, 9 B. & C. 479; 4 M. & R. 334. *Decisions on sect. 1.*

Tithes for which compositions have been entered into, may be rated in the hands of the rector in one entire sum: *Rex v. Sussex JJ.*, 3 Nev. & M. 263.

Corn rents substituted for tithes are in general liable to parochial burdens: *Rex v. Nockolds*, 3 Nev. & M. 334.

One who for the settlement of disputes between the incumbent and his parishioners, and for the benefit of all parties, took a lease of tithes from the incumbent, rendering a certain rent, the amount of which and no more he received from the tithepayers, was held liable to be rated in respect of those tithes: *Rex v. Wilson*, 5 Nev. & Man. 119.

Where tithes were extinguished, and in lieu of them the rector was entitled to a corn rent, and he was assessed at the full amount of it, and the farmers in the parish who paid the corn rent were rated upon the *bond fide* amount of the rack rent paid by them to their landlords, it was held that the latter ought not to be rated for a sum made up of the rack rent paid to their landlords, and the corn rent paid to the rector, but that they were properly rated on the amount of the rack rent only: *Rex v. Jodrell*, 1 B. & Ad. 403.

The rate was unequal because the farmer was rated not for the full value of the land, which comprised the landlord's and tenant's profit, but for the rack rent which was the landlord's profit only, while the rector was rated for the full value of his corn rent: *Ib.*

In estimating the amount at which the rector ought to be rated, the land tax ought to be deducted from the full amount of his corn rent, provided the tenants of the other lands in the manor paid the land tax without being allowed for it by the landlord, but not if such allowance was made: *Ib.*

Allowance ought to be made to the rector for ecclesiastical dues, which were a charge upon the rectory, but not for the expenses of providing for the duties of incumbency, because they were a personal charge only: *Ib.*

The vicar of a parish was held not rateable for an annuity in lieu of all his vicarial dues, the tithes in the parish not being extinguished: *Rex v. Great Hambleton*, 1 A. & E. 145.

Under an inclosure Act allotments were made to a parson as compensation for uninclosed glebe, and for all rights of common; and a corn rent was assigned to him equal to the annual value of the tithes: held that the parson was rateable in respect of such corn rent: *Rex v. Wistow*, 5 A. & E. 250; 5 L. J. M. C. 124; 5 A. & E. 250; 6 N. & M. 567.

Under 6 & 7 Will. 4, c. 96, s. 1, the vicar of a parish receiving composition for small tithes, is to be rated on such receipt in the same way as the occupier of land; that is on the sum for which the same would let free from tenant's rates and taxes and ecclesiastical dues: *Reg. v. Capel*, 12 A. & E. 382; 9 L. J. M. C. 65; 4 P. & D. 87.

Under an inclosure Act a rent was reserved to the rector of the parish out of lands intended to be inclosed; and it was held that he was not rateable in respect of such rent: *Reg. v. Shaw*, 17 L. J. M. C. 137; 12 Q. B. 419; 12 J. P. 443.

The parish of H., within the metropolis, was divided for certain purposes, of which rating for the relief of the poor was not one, into three districts. After such division, the tithes, and subsequently the tithe rentcharges, were

 RATING TITHES—*continued*.

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divided among the incumbents of the three new parishes in certain fixed proportions, and were subject to the same as rates if they had not been so divided. A poor rate was made for the old parish, in which the rectors of the new parishes were assessed in respect of their tithe rentcharge, and they claimed, in order to arrive at the rateable value of the tithe rentcharge, to deduct from the gross sum allowances in respect of the following items:—1. Rates (other than general rate, lighting rate, and sewers rate); 2. Estimated law expenses in enforcing payment; 3. Estimated expenses of collection other than above; 4. Land tax; 5. Property tax*; 6. Estimated losses by non-payment; 7. General rate; 8. Lighting rate; 9. Sewers rate; 10. Estimated profit of rentcharge farmed by yearly tenant; 11. Tenths; 12. Ecclesiastical dues; 13. Curate's salary. 14. Amount paid towards the salary of the minister of the district church; 15. Estimated amount of the rector's personal services. Held, that the appellants were entitled to deductions in respect of the items claimed, except sewers-rate, the estimated profit of rentcharge farmed by a yearly tenant, land-tax, and the personal services of the rector, for which no deduction was in any case to be made; that they were not entitled to deduction in respect of the salary of the minister of the district church, if the payment was voluntary, and might be withheld at pleasure, but were entitled to it if the payment was compulsory, and virtually separated from the appellants' emoluments; and that they were entitled to reasonable deduction in respect of curate's salary, if the population was sufficiently large to make the services of a curate necessary (but now see *Reg. v. Sherford, post*, p. 61): *Reg. v. Goodchild*; *Reg. v. Lamb*, 1 E. B. & E. 1; 22 J. P. 144; 31 L. T. 9; 27 L. J. M. C. 233; 4 Jur. (N. S.) 1050.

The vicar claimed to deduct from the gross value of his tithe commutation rentcharge, in order to ascertain its rateable value, a sum made up of interest and part principal annually payable by him as vicar to the governors of Queen Anne's bounty, in liquidation of money borrowed by him from them, to rebuild the parsonage house, and secured by a mortgage of all the tithes and profits of the living: held, that the deduction was not authorized by the Parochial Assessment Act: *Reg. v. Lamberhurst*, 31 L. T. 9; 27 L. J. M. C. 248; 4 Jur. (N. S.) 1050; S. C. *Reg. v. Hawkins*, 22 J. P. 148.

By way of endowment of the minister of a new district, the rector of the parish of T. granted to such minister and his successors "one clear yearly rentcharge or sum of 150*l.*, to be payable half-yearly," &c. "to be for ever issuing and payable out of, and charged upon and being part of all that the rectory," &c. The deed gave a power of entry and distress in case of non-payment of the money, but the money had been paid and the power had not been exercised. The parish officers of T. having assessed the minister: held he was not liable to be assessed: *Tolleshunt Knights, resp., Friend, app.*, 1 E. & E. 753; 33 L. T. 89; 5 Jur. (N. S.) 1080; S. C. *Friend v. Tolleshunt Knights*, 28 L. J. M. C. 169.

G. had a lease of the tithe rentcharge of the parish of H. from the Archbishop of Canterbury, as owner, subject to a payment of 40*l.* a year duly charged on the said rentcharge by the archbishop, payable to the curate of T. The lessee paid the 40*l.* to the curate of T. as required by the lease: held, G. was not entitled to a deduction of the 40*l.* in making his tithe

* The Poor Law Board have been informed by the Commissioners of Inland Revenue, in reply to an inquiry on the subject, that neither the owners of tithe rentcharges nor their lessees are chargeable with income tax under Schedule B. of statute 5 & 6 Vict. c. 35, in respect of such rentcharges.

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rentcharge assessable to the poor rate: *Groves v. Hernhill*, 24 J. P. 341; *Decisions on* 29 L. J. M. C. 179; S. C. *Reg. v. Groves*, 6 Jur. (N. S.) 1014; 2 E. & E. *sect. 1.* 793.

Two parishes, though distinct, were so far inseparable that one incumbent had always filled both benefices. W. being appointed rector, and owing to two services going on at the churches of both parishes at one time, such churches being distant from each other, he appointed a curate to serve in one of them: held, W. was entitled to deduct the curate's salary from the amount of the tithe rentcharge for which he was rated in that parish: *Williams v. Llangeinwen*, 1 B. & S. 699; 8 Jur. (N. S.) 303; 26 J. P. 164; 31 L. J. M. C. 54; 5 L. T. (N. S.) 309 (but now see *Reg. v. Sherford*).

A. being curate of W., obtained a lease of the tithe rentcharge of B., on condition of doing the spiritual duty of B. The two parishes, though anciently connected, were distinct. A. employed a curate for B., as was necessary, and sought to deduct the salary of the latter from his assessment to the poor rate: held, he was not entitled to such deduction, for A. was in the ordinary position of a pluralist: *Wheeler v. Burnington*, 31 L. J. M. C. 57; 8 Jur. (N. S.) 304; 1 B. & S. 709; 26 J. P. 38; 5 L. T. (N. S.) 345.

Where the rector of a parish, part of which was taken with parts of other parishes to form a new district parish, charged the tithe rentcharge in his occupation, under the New Parishes Acts, with a perpetual yearly sum of 150*l.* as a contribution towards the endowment of such district church: held, the rector was not entitled to claim a deduction of this sum from the assessable value of such tithe rentcharge in his occupation: *Tolleshunt Knights v. Frend*, 31 L. J. M. C. 148; 8 Jur. (N. S.) 866; S. C. *Lawrence, app., Tolleshunt Knights, resp.*, 2 B. & S. 533; 26 J. P. 422.

Where the income of the incumbent of a parish is made up of a tithe rentcharge, glebe land, and interest of a sum invested in the public funds, and he necessarily employs a curate to assist him, in assessing the tithe rentcharge to the poor rate, the salary of the curate must be set against the whole income, and a proportionate sum only deducted from the amount of the rentcharge: *Reg. v. Scriven with Tentergate*, 8 L. T. (N. S.) 352; S. C. *Fawcett v. Scriven with Tentergate*, 11 W. R. 689; S. C. *Scriven v. Fawcett*, 27 J. P. 344; S. C. *Scriven with Tentergate v. Fawcett*, 32 L. J. M. C. 161; 9 Jur. (N. S.) 1125; 3 B. & S. 797.

The owner of a tithe commutation rentcharge in the assessment thereof to the poor rate is entitled to no deduction in respect of stipend paid by him to a curate, although the appointment of the curate be necessary and unavoidable. The case of *Reg. v. Mersey Docks*, (*ante*, p. 33,) by laying down the rule that in rating property according to the 6 & 7 Will. 4, c. 96, s. 1, it is not necessary that the occupation should be beneficial to the occupier, if it yield a rent over and above the average annual expenses necessary to maintain the property in a state to command such rent, has in effect overruled *Reg. v. Goodchild*, *ante*, p. 60: *Reg. v. Sherford*, 16 L. T. 663; 36 L. J. M. C. 113; L. R. 2 Q. B. 503; 8 B. & S. 596.

RATING UNDERWOODS.

Beech is not timber by the general law; but if it be timber according to the custom of the place, it is not rateable: *Rex v. Minchin-Hampton*, 3 Burr. 1309.

Saleable underwoods are rateable annually in proportion to their value, though they should happen not to be cut down more than once in twenty-one years; and their annual value may be estimated, amongst other ways, according to the value they may be worth to rent for a lease of the duration of their intended growth: *Rex v. Mirfield*, 10 East, 219.

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Where beech is admitted to be timber by the custom of the county, the general rule of law applicable to timber trees in general attaches upon it, so as to give it the properties and privileges of timber at twenty years' growth; and therefore upon an issue whether certain beech trees in the county of Bucks (which after being felled had been distrained for poor rate, to which it was contended they were liable) were or were not timber according to the custom of the county, the inquiry is confined to the nature of the wood, and the period of its growth, whether of twenty years; and no evidence can be received to qualify its character of timber, by showing that it was not deemed to be such in the county, unless the tree contained ten feet of solid wood; and the jury having formed a general verdict for the plaintiff on that issue, affirming such trees of twenty years' growth and upwards, though not containing ten feet of solid wood, to be timber by the custom, and also upon another issue negating them to be saleable underwood within 43 Eliz. c. 2, s. 1, the court refused to grant a new trial: *Aubery v. Fisher*, 10 East, 446.

Oak wood of more than twenty years standing, not growing from acorns, but from old stools which belonged originally to trees which had stood more than twenty years, were held not to be so clearly entitled by 45 Ed. 3, c. 3, to exemption from tithe as to make a verdict which subjected them to tithe a wrong verdict: *Ford v. Racster*, 4 M. & S. 130.

Firs and larches with oaks for the purpose of sheltering the cattle, and cut from time to time as the oaks grew larger and required more space, but when once cut not growing again, and some of them yielding a profit by sale, are not saleable underwoods within 43 Eliz. c. 2, s. 1, the primary object of planting them being to protect the oak, and not to derive a profit from them *per se* for sale; *semble*, they are not underwood at all: *Rex v. Ferrybridge*, 1 B. & C. 375; 2 D. & Ryl. 634.

A wood, consisting of oak growing from old stools, with a few ash, alder, and beech trees, had not been felled for fifty years until three years before it was rated. During the last three years the owner had annually cut the worst shoots, selling the polls by the dozen for colliery purposes and firewood, and the bark by the ton. The wood was also occasionally waste-weeded to improve the plantation. The sessions found that the wood was not saleable underwood within 43 Eliz. c. 2, s. 1, and the court confirmed their order: *Reg. v. Narberth, North*, 1 Per. & D. 590; 9 A. & E. 815; 8 L. J. M. C. 46.

Whether woods are saleable underwoods within the statute is a question of fact, and the court will confirm the finding of the sessions upon it, unless it be evidently wrong: *Ib*.

No tithes are payable in respect of *gros bois* or timber trees above twenty years' growth, although growing from the stools or roots of trees formerly cut down. *Evans v. Rowe*, 1 Mc.Cl. & Y. 577, overruled: *Lozon v. Pryse*, 5 Jur. 310.

Certain woods, covering many acres in the county of Gloucester, and consisting chiefly of beech trees, intermixed to a small extent with hazel and ash trees, were treated in this way:—A few maiden trees were left in various parts, and the other trees were cut down, and stools from which shoots grew out. The woods are cut annually in patches, and each patch is cut on an average once in thirty years, and the portion of the wood so cut which is large enough is sold as "pit timber" for use in coal mines, and the rest for "brushwood" or "firewood." The woods are sold standing by the owner to dealers, who cut them down at their own expense. On a case stated for the opinion of the court, it was held that these woods were rateable as "saleable underwoods" within 43 Eliz. c. 2, s. 1, although by the custom of the county of Gloucester, beech is considered as timber: *Lord Fitzhardinge v. Pritchett*, 15 L. T. (N. S.) 502; 2 L. R. Q. B. 135; 8 B. & S. 216; 36 L. J. M. C. 49.

RATING WATERWORKS.

If one rent land, together with a mineral spring thereout arising, at a gross yearly rent, he is rateable in respect of the whole of such rent, though in fact the annual value of the land independent of the spring is only in proportion of two to eight of the rent reserved: *Rex v. Miller*, Cowp. 619. *Decisions on sect. 1.*

In respect of springs and reservoirs the corporation were held rateable in parish L. as for land occupied by them; which reservoirs by means of aqueducts and pipes laid under ground, partly in the same parish and partly through the parish of St. J., into the parish of St. P., for the supply of the city of Bath, produced a clear annual profit. But the corporation were not to be rated for the whole of the entire profit in L., a proportion of such entire profit accruing to the corporation from the aqueducts and pipes laid into the soil of the other parishes, in respect of which the corporation were to be considered as the occupiers of land yielding annual profit in those parishes: *Rex v. Bath, Mayor of*, 14 East, 609.

Land, of which the annual value is improved by a spring rising within it is rateable at such improved value, though the owners of the land (the New River Company), who are also occupiers, do not receive any of the profits in, nor does any part become due in the parish where the land lies: *Rex v. New River Company*, 1 M. & S. 503.

Where a company were empowered by Act of Parliament to lay underground through the streets of a town main pipes for the conveyance of water, and the inhabitants, with the company's consent, to lay pipes communicating with such main pipes to their houses, paying to the company rates for such privilege: held, that the company were rateable in the parish where their main pipes lay, in respect of such pipes and the water rates paid by the inhabitants: *Rex v. Rochdale Waterworks Company*, 1 M. & S. 634.

Where a statute did not use the comprehensive word "land," but used the word tenement in a very limited sense only, and not in a sense to include the trunks and pipes, works, and other apparatus of a waterworks company; it was held that the company were not liable to be rated in respect of such property: *Rex v. Manchester and Salford Waterworks Company*, 1 B. & C. 630; 3 D. & R. 20.

A waterworks company were held rateable for a reservoir which they, with licence from the Crown, constructed in a Royal Park, but for which they paid no rent. They were also held rateable for the occupation of land below the surface of the soil by their pipes, though another person was rated for the herbage: *Rex v. Chelsea Waterworks Company*, 5 B. & Ad. 156; 2 N. & M. 767.

The proper mode of rating a waterworks company is as follows:—The portion of the works indirectly productive of profit should be first assessed in the ordinary way by valuing the land and buildings, and the amount so ascertained deducted from the whole rateable value, and distributed to the districts in which those parts of the works are situated. The residue of the whole rateable value should be apportioned among the parishes in which the parts of the works directly productive are situated, in the ratio of the rent to be expected if the parts situated in each parish were let separately: this ratio is correctly ascertained by the ratio of the net profits in each of the several parishes, or the ratio of the gross receipts in the several parishes, whereon the total of expense is common to the whole apparatus: *Reg. v. Mile End Old Town*, 10 Q. B. 208; 16 L. J. M. C. 184; 11 J. P. 505.

Commissioners were rated in L. to the relief of the poor in the sum of £490, the sessions finding that sum to be the estimated net rateable value of all the reservoirs, pipes, and other apparatus in L., taken in connection with, and as part of, the entire works in H. and L. The sessions also

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found that a tenant of the entire waterworks, if released from the restrictions in the commissioners' Acts of Parliament, and able to exercise his discretion as to the amount of water rents and rates, might calculate on a much larger revenue; and that, in such case, the net rateable value should be £1,100: held, that there was no sufficient ground shown by the appellants for altering the finding, that the commissioners were properly rated at £490; for the principle put, of a tenant released from restrictions, and at liberty to charge any rates he pleased, did not furnish a proper criterion for ascertaining the rateable value; as substantially the consumers, and not the commissioners, were the occupiers, and the use and enjoyment of the water, and not merely the water rents, constituted the value of the occupation; the restrictions imposed by the Acts amounted to no more than an arrangement between the commissioners and consumers, as one body, of the terms upon which the benefits of the occupation were to be enjoyed, and could have no bearing on the question of the amount of rateable value as between the consumers and the inhabitants of L.: *Reg. v. Longwood*, 17 Jur. 134; 17 Q. B. 871; 18 L. J. M. C. 65; 13 J. P. 137.

Commissioners constructed a reservoir in K., for the purpose of affording a regular supply of water to mills situated out of K.; and were rated to the poor rate of K. in respect of the reservoir, at a sum which was admitted to be a proper assessment on the occupiers of the reservoir, if the works constructed and carried on by the commissioners had been a private undertaking of persons who had increased the available supply of water to the millowners, as was done by the reservoir, and who at pleasure could allow or refuse the millowners the benefit of such increased supply. The commissioners were rightly assessed in K., and at the correct amount: *Reg. v. Kentmere*, 21 L. J. M. C. 13; 17 Q. B. 551; 16 J. P. 36.

A local Act for lighting a hamlet, enacted that rates should be laid on all persons who should inhabit, use, occupy or be in the possession of, or having any messuages, tenements, houses, warehouses or other buildings, tenements or hereditaments so situated or being in such streets, and as should be from time to time lighted under the Act. Held, that the general words "tenements and hereditaments" included only such things, *ejusdem generis* with those before mentioned, and which were capable of being inhabited and benefited by the Act, and that a water company was not rateable in respect of its pipes laid in the ground under the streets of the hamlet: *Reg. v. East London Water Works Company*, 21 L. J. M. C. 49.

Where a corporation purchased the works, &c. of a water company in consideration of annual payments; and the whole of the proceeds of the works and water supplied and sold had been absorbed by the payment of the annual sums to the water company, the corporation were held rateable to the poor of the township comprised in, but not co-extensive with the borough: *Reg. v. Manchester, Mayor, &c. of*, 21 L. J. M. C. 160; 17 Q. B. 859; 16 J. P. 505.

A statute authorized a rate to be levied, one half on the owners, and the other half on the occupiers of all lands and hereditaments within the parish. The interpretation clause defined "owners" as including all those who were in the actual receipt of the rents and profits of lands and hereditaments. A water company were empowered by Act of Parliament to lay down their pipes in the streets of a town within the parish, but had no further interest in the soil: held, affirming the judgment of the Court of Session in Scotland, that the company were rateable both as owners and occupiers in respect of their pipes: *Edinburgh Water Company v. Hay*, 22 L. T. 321; in Dom. proc.

By statute commissioners were empowered to erect waterworks for sup-

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plying water for public purposes in Liverpool, and to levy a rate on the borough for the expenses thereof. The Act contained express prohibitions against using this water for domestic purposes. The commissioners erected waterworks in the adjoining township of West Derby. By subsequent Acts the property and powers of these commissioners became vested in the municipal corporation of Liverpool. Water was supplied in Liverpool for domestic purposes by trading companies from waterworks also situated in the township of West Derby. The municipal corporation were, by a local Act, empowered to purchase the undertakings of these companies, and for that purpose to borrow money. When purchased, the corporation were to supply water for domestic purposes to the inhabitants of Liverpool, which then comprised the parish of Liverpool, and part of the township of West Derby, and of parts of other townships, with power to supply the inhabitants of an adjoining district, including the whole township of West Derby. It was enacted, that they were so to regulate the charges for the water so supplied as to raise no more money than the interest of the money borrowed, and the expenses of managing the waterworks. The purchase was completed; and those waterworks were vested in the corporation. By a subsequent Act, the corporation were empowered to use the water from the commissioner's waterworks and the company's waterworks indiscriminately; and the pipes were accordingly united; and the two sets of waterworks were occupied in common: held, that the corporation were rateable in the township of West Derby for the waterworks there occupied by them under these enactments: *Liverpool, Mayor, &c., of, v. West Derby*, 6 E. & B. 704; 27 L. T. 218; 2 Jur. (N. s.) 1002; 25 L. J. Q. B. 361; 20 J. P. 661.

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A water company was held rateable for its mains, being fixed capital vested in land, the company being in possession of the mains buried in the soil, and so, *de facto*, in occupation of the space in the soil filled by the mains for a purpose beneficial in itself; the company was to be rated for so much land and buildings with fixtures and machinery attached, and some additional value from their capacity of being applied to such purposes as those of a water company; such additional value being derived from an increase of demand beyond supply, according to the principle regulating exchangeable value, and not by reference to the receipts earned in another parish, beyond assuming that they were sufficient to pay all outgoings, including profits on capital: *Reg. v. West Middlesex Waterworks Company*, 32 L. T. 388; 28 L. J. M. C. 135; *S. C. West Middlesex Waterworks Company, app., Hampton, resp.*, 5 Jur. (N. s.) 1159; *S. C. Reg. v. Hatton*, 1 E. & E. 716.

A waterworks company had reservoirs in the parish of Putney, and pipes conveying the water to and from the same, but no water was sold in the parish: held, it was not a correct principle of rateability to the poor rate to take the rateable value of the whole apparatus in the several parishes in which it was situated, and then subdivide the amount among these several parishes according to the quantity of land occupied by the apparatus in each parish: *Chelsea Water Works Company v. Putney*, 2 L. T. (N. s.) 663; 24 J. P. 486; 6 Jur. (N. s.) 940; 29 L. J. M. C. 236.

This decision was upon the construction of local Acts; it was held that the reservoir of the company within the borough was rateable to the borough rate at only one-fourth part of its net annual value, and that the pipes and mains of the company within the borough were rateable to the borough rate to the full extent, and not merely to one-fourth part of their net annual value as "land covered with water:" *Reg. v. Birmingham Waterworks Company*, 1 E. B. & S. 84.

It may be doubted whether the distinction which has been taken between direct and indirect sources of profit as applied to the mains and pipes of a water company running through different parishes, is well founded,

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especially in cases where the mains only belong to the company and not the service pipes: *Sheffield United Gas Light Company v. Sheffield*, 4 B. & S. 135.

The proper allowance to be made for tenants profits and interest on capital is entirely a question of fact: *Sheffield United Gas Light Company v. Sheffield*, 4 B. & S. 135.

A waterworks company were empowered by their Act to let sites for erecting mills on the banks of their watercourse, and also to contract to supply water power to the mills to be so erected, at such annual rents as might be agreed upon. In respect of the annual income derived from this source, the company were rated as occupiers and not the mill-owners: held, that the assessment was rightly made: *Greenock Police Trustees v. Shaw's Water Company*, 9 Jur. (N. S.) 1207; *S. C. Shaw's Water Company v. Greenock Police Trustees*, 9 L. T. (N. S.) 182. In Dom. Proc.

In assessing the rateable value of waterworks in a parish, the company are not entitled to any deduction in respect of payments of interest on borrowed money, nor of the sums derived from water rates on mills without the parish: *Reg. v. Holme Reservoirs*, 28 J. P. 165.

RATING WORKHOUSES.

Governors of the poor hiring a house without their district as a workhouse, and using it for that purpose, are rateable in the parish where the house is situated, as occupiers, whether the employment of the paupers be profitable or not: *Bristol v. Waite*, 5 A. & E. 1; 5 L. J. M. C. 113; 6 N. & M. 383.

The guardians of a union formed under 4 & 5 Will. 4, c. 76, are rateable as occupiers of their workhouse in the parish in which it is locally situated; *Reg. v. Wallingford*, 10 A. & E. 259; 8 L. J. M. C. 89; 2 P. & D. 226.

Land purchased for a workhouse by trustees of St. Luke's parish, and situated in another parish, was, by a local Act, not to be liable to pay any greater parochial or parliamentary taxes, rates, or assessments (during such time as it should be used for workhouse purposes) than to such amount as such land, &c., was assessed before it became vested in the trustees; the Act was repealed by a subsequent local Act, with certain saving clauses, and by a local Act for rating in the parish where the land was situated, a rate was to be laid upon persons who inhabit, hold or occupy any land, &c., within the parish according to the annual value thereof. This latter Act it was held did not alter the mode of ascertaining the annual value of the workhouse for the purpose of rating: *Reg. v. St. Leonard, Shoreditch*, 19 L. J. M. C. 71; 13 J. P. 535.

A workhouse which was exempt from poor rate under a local Act, but which being no longer used under the local Act, was held liable to be rated at the improved rateable value, and the exemption in the local Act ceased: *Reg. v. Worcester Union, Guardians of*, 20 L. T. 275, Q. B.

A workhouse which was exempt from rates by a local Act, and the exemption not being continued by a subsequent Act, became liable to be rated: *Montgomery and Pool District v. Forden*, 27 L. T. 167, Q. B.

The 34 Geo. 3, cap. cxviii, enabled the directors of the poor of Bedford to erect a workhouse, and enacted that all buildings erected by virtue of that Act should be free from "all parochial and parliamentary taxes." A workhouse erected under the provisions of the local Act, was liable to be assessed under another local Act to a rate on public buildings, for the improvement of the town of Bedford: *Bedford Union v. Bedford Commissioners*, 7 Ex. 777; 21 L. J. M. C. 22.

A workhouse is rateable to the general district rate, under 21 & 22 Vict. c. 98, s. 55; *Reg. v. Toxteth Park*, 1 E. B. & B. 167; 7 Jur. (N. S.) 860; 4 L. T. (N. S.) 283; 30 L. J. M. C. 154.

RATING MISCELLANEOUS PROPERTIES.

There was a toll in the town of Whickham that time out of mind had *Decisions on* never been taxed to the poor, and the question was whether it could be now *sect. 1.* taxed by the statute 43 Eliz. ? and the court held that it might: *The Case of the Poor of Whickham*, Freem. 419; 3 Keb. 540.

A bishop is liable to be rated in respect of his palace, for there can be no prescription against the tax: *Subdeanery v. Chichester, Mayor of*, 3 Keb. 572; Cald. 152.

A preacher at a meeting house was not liable to be rated any more than his audience: *Rex v. Southwark*, 2 Str. 745.

A private chapel, if a profit was derived from it, was held to be rateable: *Robson v. Hyde*, Cald. 310; Cowp. 453; 3 Burr, 1341; 1 Bl. Rep. 389.

The warden of the Fleet was held rateable as the occupier, for his profits upon the lodgings of the prisoners: *Rex v. Eyles*, Cald. 407; 1 Bott. 169.

"Note.—It was lately resolved by the court that ground rents are liable to the poor's rate." *Rex v. Gibbs*, Comb. 62. Eyres, J., said, that a quit rent is not taxable to the poor, for the tax ought to be laid on the occupiers; but Holt said it was otherwise ruled in the case of one Williams of Suffolk, Comb. 264.

Neither quit rents, nor heriots nor other casual profits of a manor are rateable: *Rex v. Vaudewall*, 2 Burr. 991; 1 W. Bl. 212.

No person is liable to poor rate on account of salary only: *Rex v. Shalfleet*, 4 Burr. 2011; Cald. 154, 331, 351, 355.

Chambers in an Inn of Court are not rateable within the intent of 43 Eliz. c. 2, s. 1; *Moxon v. Horsenail*, Bott.; *Rex v. Peterborough JJ.*, Cald. 238.

It is not settled whether the herbage and pannage of a forest are rateable: *Jones v. Maunsell*, 1 Doug. 302.

A weighhouse-machine house is rateable to the poor rate: *Rex v. St. Nicholas, Gloucester*, Cald. 262; 1 T. R. 723, n.

A corporation seised of lands in fee for their own profit are, within the meaning of 43 Eliz. c. 2, s. 1, inhabitants or occupiers of such lands, and in respect thereof liable in their corporate capacity to be rated: *Rex v. Gardner*, Cowp. 79.

The ranger of a royal park is rateable as such for inclosed lands in the park yielding profit; but not for the herbage and pannage which yield no profits; *Lord Bute v. Grindall*, 1 T. R. 338; *Jones v. Maunsell*, 1 Doug. 302.

Houses built on land embanked from the Thames, in pursuance of a statute, were held not to be assessed to rates made under 11 Geo. 3, c. 29: *Eddington v. Borrman*, 4 T. R. 4.

One who only partially occupies a house, as one room or more, is rateable for the whole house: *Rex v. St. Mary the Less*, 4 T. R. 477.

Naval officers' pay is not rateable; nor officers of customs, or merchants' clerks: *Rex v. White*, 4 T. R. 771.

Household furniture is not rateable; nor money, whether at interest or not: *Rex v. White*, 4 T. R. 771.

The trustees of a Quaker's meeting house, of which no profit was made by the pews, &c., were held not rateable for the same, (but now see 3 & 4 Will. 4, c. 30, s. 1): *Rex v. Woodward*, 5 T. R. 79.

An attorney is not rateable in respect of the profits of his profession: *Rex v. Startifant*, 7 T. R. 60.

Uninclosed land belonging to a corporation in fee, and stocked with cattle of resident burgesses, or the widows of such, is rateable: *Rex v. Aberavon*, 5 East, 453.

Burgesses who stock lands belonging to a corporation are tenants in common, and are occupiers liable to be rated for the lands: *Rex v. Watson*,

RATING MISCELLANEOUS PROPERTIES—*continued.*

Decisions on sect. 1. 5 East, 480; 2 Smith, 144; see also *Rex v. Tewkesbury*, 13 East, 155; and *Rex v. Sudbury*, 1 B. & C. 389; 5 D. & R. 651, *infra*.

Stock and annuities in the public funds are not rateable: *Rex v. Maddermarket*, 6 East, 182; 2 Smith, 270.

Where a farmer is rated for the whole farm, it is no objection to the rate that a dairyman, who rented under him his stock of cows to be depastured on the same land, was not rated for such dairy: *Rex v. Brown*, 8 East, 528.

Commissioners for drainage, who derive no benefit from property they purchased for drainage works, (the whole of which benefit went to the owners of lands in other parishes drained by means of the outlet), are not rateable in the parish where the works are: *Rex v. Sculcoates*, 12 East, 40.

Trustees for the burgesses of Tewkesbury had vested in them the after-math of a meadow, which they did not let out to any person for a certain term, but let it at so much per head for horses, &c., turned in, to various persons, were to be taken as the occupiers of the land, and therefore rateable: *Rex v. Tewkesbury*, 13 East, 155.

The trustees of a Methodist chapel are rateable for the same, though all the profits arising from the pew rents are expended in repairs, salaries, &c.; (but now see 3 & 4 Will. 4, c. 30, s. 1): *Rex v. Agar*, 14 East, 258.

A corporation are rateable for a common of pasture, upon which burgesses depasture their cattle on payment for each, which payments, after deducting expenses, are divided amongst the burgesses who do not depasture: *Rex v. Sudbury*, 1 B. & C. 389; 5 D. & R. 651.

The burgesses of Nottingham, and the occupiers of ancient messuages there, had, as such, for a certain portion of the year a right to turn cattle into certain fields, and to exclude during that period the owner of the soil. This being a mere right of common was held not rateable: *Rex v. Churchill*, 4 B. & C. 750; 6 D. & R. 635.

A corporation was held liable to be rated, although by a clause of the local Act giving a right to appeal, the person appealing was bound to enter into a recognizance *Curtis v. Kent Waterworks Company*, 7 B. & C. 440.

An exchange proprietary news room is rateable for the revenue arising from subscriptions, though stock-in-trade, profits, and personality were not rated in the parish; but the company were not liable to be rated for the value of the privileges given to the proprietors personally: *Rex v. Liverpool Exchange*, 1 A. & E. 465; 3 L. J. M. C. 107; 3 Nev. & M. 550.

An incorporeal hereditament is not rateable; and, therefore, payments to the lord of a manor in lieu of market tolls were held not rateable under a local Act: *Colebrook v. Tickle*, 4 A. & E. 916; 6 N. & M. 483; 5 L. J. K. B. 180.

Trustees of a turnpike road were held not liable to be rated for "land upon which they had made a road, and in respect of which they received tolls:" *Rex v. Great Dover Road, Trustees of*, 5 A. & E. 692; 6 L. R. M. C. 25; 1 N. & P. 157.

A corporation were held rateable for certain lands they had acquired in fee under an inclosure Act, and upon which the freemen had rights of pasturage upon payment. As to certain other land they were held not rateable: *Rex v. York, Mayor, &c. of*, 6 A. & E. 419; 6 L. J. M. C. 121; 1 N. & P. 539.

Where a corporation had been rateable in respect of town and anchorage dues before 5 & 6 Will. 4, c. 76; s. 92 of that Act, by appropriating all the corporate funds to purposes of a public nature, exempted such dues from further rateability: *Reg. v. Liverpool*, 9 A. & E. 435.

Where the interests of freemen in a common of pasture and turbary is that of commoners only, the corporation who held the soil by grant were not rateable in respect thereof: *Reg. v. Alnwick*, 9 A. & E. 444; 8 L. J. M. C. 50; 1 P. & D. 343.

RATING MISCELLANEOUS PROPERTIES—continued.

Since 5 & 6 Will. 4, c. 76, s. 92, a corporation are not rateable in a foreign parish in respect of a canal and towing path therein, though there was a balance of clear revenue: *Reg. v. Exminster*, 12 A. & E. 2; 9 L. J. M. C. 108; 4 P. & D. 69; but now see *Jones v. Mersey Docks*. *Decisions on sect. 1.*

A cemetery company are liable to be rated as occupiers of the whole cemetery, though they may have sold perpetual rights of burial in vaults, &c. made by them. The profits arising from such sales ought to be included in the rateable value of the cemetery: *Reg. v. St. Mary Abbots, Kensington*, 12 A. & E. 824; 4 P. & D. 327; 10 L. J. M. C. 75.

One who occupied land without paying anything for it as rent, but who undertook to bear all the charges necessary to maintain that and other land from inundations from the sea, was held rateable for the full annual value without deduction on account of the embankment tax or charge: *Reg. v. Vauge*, 3 Q. B. 242; 11 L. J. M. C. 117; 6 J. P. 668.

The lessee of a private box in a theatre is rateable for it, although the proprietors of the theatre are rated for the theatre generally: *Reg. v. St. Martin-in-the-Fields*, 3 Q. B. 204; 6 J. P. 656; 11 L. J. M. C. 112.

In calculating the rateable value of a brickfield, the royalty payable in respect of the number of bricks made, as well as the rent, may be taken into account; and neither the circumstance of the rapid exhaustion of the material nor the casualties attending the process of the manufacture can affect the principle of the calculation. If the sum for which it might be expected to let from year to year as a brickfield can be ascertained, that sum will be the true estimate of its value: *Reg. v. Westbrook*, 16 L. J. M. C. 87; *Reg. v. Everist*, 10 Q. B. 178; 11 J. P. 277.

The rateable value of land used as a cemetery was decided by the sessions to be the gross revenue derived by the company for the cemetery, after deducting therefrom 10 per cent. for tenants profits and the amount of outlay for local expenses connected with the cemetery itself, and also a sum in respect of general management, including office expenses, and salaries to directors, auditors, a secretary and a clerk; but the court on appeal, held, that the expenditure for general management was collateral to the occupation of the cemetery and an outlay of part of the revenue, and therefore that the sessions were wrong in deducting the amount of such expenditure: *Reg. v. St. Giles's, Camberwell*, 19 L. J. M. C. 122; 14 Q. B. 571; 14 J. P. 448.

Local Improvement Commissioners were held properly rated as occupiers and owners of a pump-room in a township, in part within the limits of their Act, the purposes for which they were appointed not being for the public advantage only: *Reg. v. High and Low Harrogate*, 20 L. J. M. C. 25; 15 Q. B. 1012; 15 J. P. 38.

A rate in respect of the occupation of land by a floating pier to which it is attached by anchors is a valid rate: *Reg. v. Leith*, 21 L. J. M. C. 119; 1 E. & B. 121; 16 J. P. 310.

A floating dock which had no necessary connection with a ship-building yard, was held not to enhance the rateable value of the latter: *Reg. v. Morrison*, 22 L. J. M. C. 14; 1 E. & B. 150; 17 J. P. 24.

The occupier of land over which there is a private way, extending into two parishes, and for passing over which money is taken at a halfpenny hatch, situate in one of such parishes, is rateable for the profit derived from such way in both of the parishes in proportion to its length in each, and not exclusively in that in which the hatch is situate: *Reg. v. St. George the Martyr, Southwark*, 3 Com. L. R. 1127 Q. B.; 25 L. T. 175.

A local board of health were held rateable for a stone yard in their occupation: *Reg. v. Hull JJ.*, 4 E. & B. 29; S. C. *Reg. v. Cooper*, 23 L. J. M. C. 183; 18 J. P. 695.

A telegraph company were held liable to be rated in respect of the telegraph wires, posts, and land in which the latter were affixed; (but now

RATING MISCELLANEOUS PROPERTIES—*continued.*

Decisions on
sect. 1.

see 31 & 32 Vict. c. 110, s. 22): *Electric Telegraph Company v. Salford*, 24 L. J. (N. S.) M. C. 146; 3 W. R. 518; 19 J. P. 375; 11 Exch. 181; 1 Jur. (N. S.) 733; 25 L. T. 166.

A person who has merely a licence to sell refreshments in a building is not an occupier so as to render him liable to be rated to the poor rate, in respect of the portion of the premises where the refreshments are sold: *Morrish v. St. Mary Abbots, Kensington*, 27 J. P. 470; *S. C. Morrish v. Hall*, 8 L. T. (N. S.) 697; *Reg. v. Morrish*, 32 L. J. M. C. 245; 10 Jur. (N. S.) 71.

The owners of a cotton mill, in consequence of the depression of trade ceased to work it, but retained in their employ a person whose duty it was to look after the machinery, and keep it in a proper state of repair; held, that the mill, although not as such liable to the poor rate, was nevertheless rateable as a warehouse for the stowing of the machinery: *Staley*, app., *Castleton*, resp., 33 L. J. M. C. 178; 10 Jur. (N. S.) 1147.

The owner of a silk-mill having given up working it himself, but retaining possession of it *in statu quo*, intending to let it with the machinery as a silk-mill, is rateable in respect of his occupation of the mill as a warehouse for his machinery and plant: *Harter v. Salford*, 34 L. J. M. C. 206; 29 J. P. 647; 11 Jur. (N. S.) 1036; 6 B. & S. 591.

The municipal corporation of L. as lords of the manor, had the soil of a common vested in them, while the freemen had a right of common only. The corporation repaired the fences, appointed wardens, and managed the common, but derived no profit from it, the expenses being paid out of the corporate funds, and there being no return; it was held that the corporation and not the freemen were rateable, but as they derived no profit the rate must be reduced to *nil.*: *Lincoln v. Holme Common*, 31 J. P. 645; 36 L. J. M. C. 73; 8 B. & S. 344; 16 L. T. (N. S.) 739.

The Oxford University boat club were held not rateable in respect of posts driven into the river Isis, used for mooring in the river a barge or house-boat, floating on the river about 30 feet from the bank, and used as a means of access to the boats, and as a dressing room, neither was the boat rateable: *Grant v. Oxford Local Board*, 38 L. J. M. C. 39; L. R. 4 Q. B. 9.

Sewers belonging to the metropolitan board of works not being the subject of a beneficial occupation, are not rateable; but a wharf, engine house, pumping station, and lay-by for barges, belonging to the board, were held to be rateable: *Reg. v. Metropolitan Board of Works*, 19 L. T. (N. S.) 348; 38 L. J. M. C. 24; L. R. 4 Q. B. 15.

MEETINGS OF OVERSEERS.

Extra parochial places the court held to be within the words of 43 Eliz. c. 2; but that the penalty for not meeting in the church, shall never be inflicted on the overseers of such places because the inhabitants have no church to meet in: *Rex v. Rufford*, 8 Mod. 39; Vin. Abr. 415.

An overseer cannot be adjudged guilty of absenting himself from the monthly meetings appointed by 43 Eliz. c. 2, until he has had personal notice of his appointment: *Rex v. Harman*, Bott.

ACCOUNTS OF OVERSEERS.

A *mandamus* will lie against the overseers to compel them to deliver their public books and papers to their successors: *Rex v. Bletshow*, Bott; *Rex v. Clapham*, 1 Wils. 305.

Under 43 Eliz. c. 2, overseers' accounts were to be delivered to two justices, and not to the succeeding overseers: *Anon.* 3 Salk. 525, and the authority of the justices could not be delegated: *Rex v. Turner*, Vin. Abr. 415.

II. And be it also enacted, that if the said justices of peace do perceive that the inhabitants of any parish are not able to levy among themselves sufficient sums of money for the purposes aforesaid, that then the said two justices shall and may tax rate and assess as aforesaid any other of other parishes, or out of any parish within the hundred where the said parish is to pay such sum and sums of money to the churchwardens and overseers of the said poor parish for the said purposes, as the said justices shall think fit according to the intent of this law: and if the said hundred shall not be thought to the said justices able and fit to relieve the said several parishes not able to provide for themselves as aforesaid, then the justices of peace at their general quarter sessions, or the greater number of them shall rate and assess as aforesaid any other of other parishes or out of any parish within the said county for the purposes aforesaid as in their discretion shall seem fit. And that it shall be lawful as well for the present as subsequent churchwardens and overseers or any of them by warrant from any two such justices of peace, as is aforesaid, to levy as well the said sums of money and all arrearages, of every one that shall refuse to contribute according as they shall be assessed by distress and sale (b) of the offender's goods as the sums of money or stock which shall be behind upon any account to be made as aforesaid, rendering to the parties the overplus; and in defect of such distress it shall be lawful for any such

Justices may make rates in aid of parishes not able to relieve their own poor.

Overseers may levy rates and arrears, &c. by distress, &c.

(b) See 14 Car. 2, c. 12, s. 18; 17 c. 20; 57 Geo. 3, c. 93; and 7 & 8 Geo. 2, c. 38, s. 11; 27 Geo. 2, Geo. 4, c. 17.

ACCOUNTS OF OVERSEERS—continued.

There were four adjacent towns within the parish of B., and an overseer within each town, and an overseer within the borough of B., who all joined in one account, and made but one rate for all the parish, but the overseer for each particular district collected and paid the money within his district. One of the overseers having a surplusage, the justices allowed that there should be a distribution made, and the order was confirmed, the case not being within 14 Car. 2, c. 12: *The case of the Borough of Banbury*, Skin. 258.

Decisions on sect. 1.

The balance must be paid over to the succeeding overseers notwithstanding the vestry may be willing to let the old overseers retain it, to pay an attorney's bill, for suing for a sum of money to be laid out in charitable uses. It was not in the power of the vestry to dispense with the statute: *Rex v. Somersetshire JJ.* 2 Str. 992.

The accounts of the overseers should be settled at the end of their year of office, and although the same person be appointed overseer for four successive years, he cannot make a rate in any one year to reimburse himself the moneys expended during any preceding years: *Rex. v. Goodcheap*, 6 T. R. 159.

Overseers' accounts being allowed, and an appeal against them dismissed, the allowance and order of sessions were brought up by *certiorari*, and an item appeared to be for the expenses of defending an appeal against overseers' accounts. The court quashed the allowance and order, such an item being bad on the face of it, inasmuch as no supposable facts could justify it: *Rex v. Johnson*, 5 A. & E. 340; 5 L. J. M. C. 129; 6 N. & M. 727.

Justices may commit persons refusing to work;

and overseers refusing to account, &c.

two justices of the peace to commit him or them to the common gaol of the county, there to remain without bail or mainprize until payment of the said sum arrearages and stock (c): and the said justices of peace, or any* one of them, to send to the house of correction or common gaol such as shall not employ themselves to work, being appointed thereunto, as aforesaid (d): and also any such two justices of peace to commit to the said prison every one of the said churchwardens and overseers which shall refuse to account, there to remain without bail or mainprize until he have made a true account, and satisfied and paid so much as upon the said account shall be remaining in his hands (e).

(c) See 12 & 13 Vict. c. 14, s. 2; (d) See 55 Geo. 3, c. 137, s. 5; 32 & 33 Vict. c. 41, ss. 11, 12. 5 & 6 Vict. c. 57, s. 5.

* One in orig.

(e) See 50 Geo. 3, c. 49, s. 1.

RATE IN AID.

Decisions on sect. 2.

An order rating other parishes is good though it do not pursue the words of the statute. The justices are to order the quantum, and the overseers are to make the rate: *Parish of St. Rumbald's*, Skin. 258.

Justices may tax particular persons in aid to another parish which cannot relieve its own poor; or they may assess the whole parish in a certain sum, and leave the overseers to levy it on particular persons. The justices cannot annex one parish to another: *Rex v. Eastchurch*, Comb. 242, 309; Skin. 258.

An order rating other parishes in aid must state that the parish was unable to provide for its own poor: *Rex v. Little Glen*, Comb. 241.

Upon an order for contribution to the relief of the poor parish the justices may either charge particular persons, or the whole parish, and they to levy it, but here a sum in gross was laid for a whole year, which (it was objected) was unreasonable, for their ability may change; nevertheless the order was confirmed: *Rex and Reg. v. Knightley*, Comb. 309; Sett. Ca. 53.

An order rating parishes within the county must be made at the sessions: *Anon. Shaw's Justice*, 42; Vin. Abr. 431.

The order must not only aver that the poor parish was unable, but the justices must thereon adjudge: *Colbett v. St. Mary, Lincoln*, Vin. Abr. 431.

The next parish within the hundred is first to be rated in aid: *Anon. Vin. Abr. 431*

The inhabitants of an extra-parochial place may be taxed to the relief of an adjoining parish: *Rex v. Clarendon Park*, Vin. Abr. 431; 2 Salk. 486.

Justices might charge particular inhabitants who are owners of lands in an extra-parochial place within a parish to aid another parish in relief of its poor: *Rex v. Occupiers of land in Boroughfen*, Bott.; Comb. 6, 242, 309; Foley, 27.

One of the vills in the same parish may be ordered to contribute to the relief of the other, but an order rating one vill in aid of another, reciting that the rich vill did not pay so much as the poor vill, without saying that either was rated to the poor, is bad for a certainty: *Anon. Foley, 25*

In an order made by two justices it must appear that the parishes taxed are within the hundred, and therefore if it only state them to be within the county it is bad; for the sessions must tax the county when the hundred is incapable of affording relief: *St. Benedict v. St. Peter's*, 11 Mod. 269; Foley, 31.

RATE IN AID *continued.*

The order must state the poor parish to be in the same hundred with the parish rated: *Boroughfen v. St John's*, Foley, 27. *Decisions on sect. 2.*

An order taxing a parish in aid, stating that it was made at the sessions is void, for it must originate with two justices: *Anon.* 5 Mod. 397; Foley, 32; *Reg. v. Griesley*, Sett. and Rem. 259; Comb. 25.

In an order made by two justices, it must appear that the parishes taxed are within the hundred; and therefore if it only state them to be within the county it is bad; for the sessions must tax the county when the hundred is incapable of affording relief: *St. Benedict v. St. Peter's*, 11 Mod. 269; Foley, 43.

The justices at sessions may charge parishes out of the hundred towards the maintenance of the poor within that hundred, before two justices have adjudged that the hundred is not able: *Rex v. Percival*, 1 Str. 56.

A contributory order must be to raise a sum certain, and not so much in the pound: *Rex v. Telscombe*, 1 Str. 314.

An order for a neighbouring parish to contribute "so long as we the said justices shall think fit" is bad; for the discretion is as to the quantum and not as to the duration of the contribution: *Rex v. St. Mary-the-Virgin*, in *Marlborough*, 2 Str. 700; Vin. Abr. 410; Foley, 59.

Justices may order one parish to pay a sum in gross to another; but they must make the rate by which it is to be raised: *St. Peter and St. Paul in Marlborough*, 2 Str. 1114.

If a division of the county be called by any other term or name, synonymous or equivalent to that of "hundred" it is equally within the intention of the Act, and the court may adjudge according to such intention: *Rex v. Millard*, 1 Burr. 576; 2 Ld. Ken. 267.

County justices cannot rate a parish within their jurisdiction in aid of another parish lying within a borough which has an exclusive jurisdiction: *Rex v. Holbeach*, 4 T. R. 778; Nol. 121.

An order is good though the two parishes together with others, were incorporated for relief of the poor, with fixed quotas of contribution: *Rex v. St. Helen, Worcester*, 2 East, 417.

DISTRESS FOR POOR RATES.

Working tools in a shop and implements of trade, if they are not in actual use at the time, and if there be no other sufficient distress, are distrainable for poor rates: *Edgecomb v. Sparks*, 2 Show. 126; see also *Gorton v. Falkner*, 4 T. R. 565.

The defendants being collectors of King's taxes pleaded the general issue; and upon evidence, it was objected that they had distrained money which was not distrainable; and that this warrant was granted before any default which ought not to be, no more than a warrant to distrain for poor rates before demand made; Holt, C. J., said that strictly it was so; but that the practice having been otherwise, *communis error facit jus*. And he said it was clear they might distrain money as well as goods; and though they took more than was due, yet it sufficeth that they return the overplus: *East India Company v. Skinner*, Bott.

A warrant of distress was well levied on goods in B. parish belonging to a ratepayer of A. parish, in respect of a poor rate of the latter parish: *Hampton v. Lammas*, Ld. Raym. 735.

A *mandamus* was held to lie to compel justices to sign a warrant of distress, although it had been customary to issue a summons first: *Rex v. Middlesex JJ.*, Bott.

Where a poor rate was made, and the name of a person who occupied lands for which he was rated in another parish was inserted after the rate

DISTRESS FOR POOR RATES—*continued*.

*Decisions on
sect. 2.*

was made, the court refused a *mandamus* for a distress warrant to issue: *Rex v. Cardiganshire JJ.*, 1 Har. & W. 274.

Parish officers levying a poor rate under a warrant of distress may retain of the goods sold the expenses of the distress and sale: *Moyse v. Cockledge*, Willes, 636.

Beasts of the plough are distrainable for poor rates, though there be other distrainable goods sufficient on the premises, and a second distress may be taken under the same warrant, though enough might have been taken on the first distress: *Hutchins v. Chambers*, 1 Burr. 579.

A general action of trespass cannot be maintained for taking an excessive distress; it ought to be a special action, grounded on the Statute of Marlbridge: *Id.*

An administrator is not liable to pay poor's rate for the intestate; at least he is not distrainable without summons: *Stevens v. Evans*, 2 Burr. 1152; 1 W. Bl. 284.

A distress for a poor rate on lands not in the occupation of the plaintiff may be replevied, notwithstanding the sessions may have confirmed the rate; because determining that a man may be assessed for what he does not occupy is an excess of jurisdiction: *Milward v. Caffin*, 2 W. Bl. 1330.

If a landlord tender the poor rate for his tenant, the overseer must receive it, and a warrant ought not to be granted to distrain upon the tenant in such case: *Rex v. Cozens*, Doug. 426.

If a poor rate be not published on the Sunday next after it is allowed, it is a nullity, and payment of it cannot be enforced, though there be no appeal to the sessions: *Rex v. Newcomb*, 4 T. R. 368.

The overseers cannot be guilty of trespass in levying a poor rate by distress, though the rate be objectionable, if the person rated and distrained upon have not appealed to the sessions: *Durrant v. Boys*, 6 T. R. 580.

The granting a warrant to levy a poor rate is a judicial and not a ministerial act in the justices: *Harper v. Carr*, 7 T. R. 270.

Though a parish had at no time antecedent to the years 1773-5 had the benefit of 43 Eliz. c. 2, but had always had five overseers, appointed separately, two for one district, two for another, and one for a third; yet two of the districts having agreed in 1773 to act together, to which the third acceded in 1775, and there having been but four overseers since that time, who had been appointed for the whole parish, it was held that such agreement at the time, acted upon for thirty years, was proper evidence for a jury to decide that the parish could in fact have the benefit of 43 Eliz. c. 2, and consequently that a distress for poor rates made by the overseers conjointly appointed for the whole parish was legal: *Lane v. Cobham*, 7 East, 1.

A writ of *mandamus* to a corporation, commanding them to pay a poor rate, omitted to state that the defendants had no effects upon which a distress could be levied; this was held a fatal objection, which might be taken after the return, or at any time before the issuing of the peremptory *mandamus*. *Quære*, whether in such a case a *mandamus* would lie at all: *Rex v. Margate Pier Company*, 3 B. & Ald. 220.

The acts of a justice of the peace who has not duly qualified are not absolutely void; and therefore persons seizing goods under a warrant of distress signed by a justice who has not taken the oaths at the general sessions, nor delivered in the certificate required, are not trespassers: *The Company of Proprietors of Margate Pier v. Hanam*, 3 B. & Ald. 266.

Where the servant of an ambassador did not reside in his master's house but rented and lived in another, part of which he let in lodgings, it was held that his goods in that house not being necessary for the convenience of the ambassador, were liable to be distrained for poor rates; *Novello v. Toogood*, 1 B. & C. 554.

DISTRESS FOR POOR RATES—*continued.*

The plaintiff's goods were distrained for poor rates, and upon the sale produced 4*l.* 7*s.* more than was necessary to satisfy the levy. The defendant tendered to him 3*l.* 14*s.*, which he refused to accept, saying that it was too late, but did not then or at any other time demand a settlement of the amount, and payment of the overplus. Held that 27 Geo. 2, c. 20, prevented the plaintiff from recovering without making a demand before commencement of the action, and that the tender did not make such demand necessary: *Simpson v. Routh*, 2 B. & C. 632. *Decisions on sec^t. 2.*

A precise demand of the sum actually due for poor rate from the person rated is necessary previous to issuing a warrant of distress: *Hurrell v. Wink*, 8 Taunt. 369; 2 Moore, 417; 1 A. & E. 281.

If a person assessed to the poor rate for premises which he occupies, and other distinct premises which he does not occupy, and his goods are distrained for the several rates jointly, he is not confined to the remedy by appeal, but may bring an action.: *Bristol v. Wait*, 1 A. & E. 264; 3 L. J. M. C. 71.

If a joint distress be made under four several warrants for four several rates, of which one is bad, the distress is not therefore void: *Id.*

If a person enter and make a joint distress for four several rates, being furnished for that purpose with four warrants, one of which is bad, he may, in an action of replevin, justify under the good warrant, and abandon the bad one; and if the causes of taking are distinct and the avouries separate, he will be entitled to a return of all the goods: *Id.*

The court will not issue a *mandamus* for a distress warrant and enforce payment of poor rates where it is doubtful whether a warrant would be legal, and the rates are recoverable by another mode of proceeding: *Rex v. Hall*, 4 Nev. & M. 546; S. C. *Rex v. Dyer*, 2 A. & E. 606.

The want of certainty in the specification of some of the property included in a poor rate is no ground for refusing a *mandamus* to justices, to issue warrants of distress for levying the amount of a particular assessment. The defect is ground of appeal only. It is no ground of discharging a rule *nisi* for a *mandamus* to justices to enforce a poor rate, which the person rated has refused to pay, and for which the justices have refused to issue a warrant of distress, that since the granting of the rule a third person has tendered the amount of the assessment to the overseers; but it is an answer to such an application that, at the meeting of justices, when the warrant was demanded, the overseer came under a promise to prove that the occupation of the person rated was beneficial, and failed to do so, whereupon the justices decided against the rate, although it was not necessary in point of law that the occupation should have been beneficial. The overseer ought to have gone again, and, after saying that the occupation need not be beneficial, have demanded a warrant: *Rex v. Wilson*, 5 Nev. & Man. 119; 1 Har. & W. 507.

Where some poor rates had not been duly published on the Sunday following the allowance, according to 17 Geo. 2, c. 3, s. 1, and a warrant of distress issued for a single sum made up of these rates, and of others which were regular. Held that the warrant was wholly bad, and that replevin lay for a distress taken under it: *Sibbald v. Roderick*, 11 A. & E. 38; 9 L. J. M. C. 76; 3 P. & D. 106.

Justices may lawfully issue a distress warrant under 43 Eliz. c. 2, s. 3, against a churchwarden, on the complaint of his co-churchwarden or overseer, for non-payment of poor-rates, where there has been a legal demand of the rate, and a refusal to pay. But if the churchwarden has charged himself with the rate, and so has elected to pay it, the justices who act judicially in the matter have a discretion, and may refuse the warrant: *Skingley v. Surridge*, 12 L. J. M. C. 122; 11 M. & W. 503; 7 J. P. 515.

A distress warrant directed a levy of a poor rate, and also a certain sum for costs. The goods being seized under the warrant were replevied, and

Overseers may
bind poor
children
apprentices.

III. And be it further enacted that it shall be lawful for the said churchwardens and overseers, or the greater part of them, by the assent of any two justices of the peace aforesaid, to bind any such children (*f*), as aforesaid, to be apprentices, *where they shall see convenient* (*g*), till such man-child shall come to the age of four-and-twenty years (*h*), and such woman-child to the age of one-and-twenty years, or the time of her marriage; the same to be as effectual to all purposes as if such child were of full age, and by indenture of covenant bound him or herself (*i*).

- (*f*) See 56 Geo. 3, c. 139, s. 7. 3, c. 134, ss. 11, 12; 56 Geo. 3,
(*g*) See 7 & 8 Vict. c. 101, s. 13. c. 139; and 1 & 2 Geo. 4, c. 32; 3
(*h*) See 18 Geo. 3, c. 47. & 4 Will. 4, c. 63; 4 & 5 Will. 4,
(*i*) 2 & 3 Anne, c. 6, s. 6; 32 Geo. c. 76, s. 61; and 7 & 8 Vict. c. 101,
3, c. 57; 42 Geo. 3, c. 46; 51 Geo. s. 12.
3, c. 80; 54 Geo. 3, c. 107; 56 Geo.

DISTRESS FOR POOR RATES—continued.

Decisions on
sect. 2.

the defendants made cognizance under 43 Eliz. c. 2, s. 19. Held that the warrant was not void, and that the cognizance was good, although the costs were recoverable only under 18 Geo. 3, c. 19, s. 1: *Skingley v. Surridge*, 12 L. J. M. C. 122; 11 M. & W. 503.

The 43 Eliz. c. 2, s. 3, does not extend to costs (but now see 12 & 13 Vict. c. 14): *Clark v. Woods*, 2 Exch. 395; 17 L. J. M. C. 189.

Arrears of poor rate due from a bankrupt before his bankruptcy are provable under the fiat, and the certificate is a bar to levying the amount under 43 Eliz. c. 2, by distress and sale of his subsequently acquired goods: *Re Wetherall and Courthorpe*, 19 L. J. M. C. 115; 14 J. P. 224.

Arrears of poor rate can be levied under 43 Eliz. c. 2, s. 3, by overseers other than the immediate successors of those who made the rate; and the 17 Geo. 2, c. 38, s. 11, has not the effect of confining this right to the immediate successors of the overseers who made the rate: *East Dean v. Everett*, 3 L. T. (N. S.) 700; 7 Jur. (N. S.) 124; 30 L. J. M. C. (N. S.) 117.

Replevin lies for goods improperly taken for poor rates, even though an appeal against the poor rate has been disallowed by a court of quarter sessions acting within its jurisdiction: *Rhymney Railway Company v. Price*, 16 L. T. (N. S.) 394.

G., by a local Act, authorizing agents for owners of small tenements to be rated, was summoned as agent for H., for non-payment of poor rates, but took no notice of the summons and did not attend the justices; on proof of the rate, of the agency of G., and of service of the summons, issued their distress warrant, and afterwards a warrant of commitment of G. On a rule to quash these warrants, it was held that G. was not entitled to have them quashed on an affidavit, stating that he was neither owner nor occupier of the premises, and that the overseers knew who was owner; for G. ought to have appeared before the justices and shown cause against the issuing of the warrants: *Reg. v. Tompkins*, 31 J. P. 470.

If a distrainment be levied for poor rate assessed in respect of premises not in the actual possession of the person rated, the overseers are liable in trespass, and the person rated is not bound to appeal to the sessions against the rate. *London and North Western Railway Company v. Giles*, 33 J. P. 776.

BINDING APPRENTICES.

Decisions on
sect. 3.

Parish apprentices may be bound for a shorter but not for a longer term than the statutes mention: *Rex v. Chalbury, Bott*.

IV. And to the intent that necessary places of habitation may more conveniently be provided for such poor impotent people, be it enacted by the authority aforesaid, that it shall and may be lawful for the said churchwardens and overseers, or the greater part of them, by the leave of the lord or lords of the manor whereof any waste or common within their parish is or shall be parcel, and upon agreement before with him or them made in writing under the hands and seals of the said lord or lords, or otherwise according to any order to be set down by the justices of peace of the said county at their general quarter sessions, or the greater part of them, by like leave and agreement of the said lord or lords in writing under his or their hands and seals to erect build and set up in fit and convenient places of habitation in such waste or common, at the general charges of the parish or otherwise of the hundred or county as aforesaid, to be taxed rated and gathered in manner before expressed, convenient houses of dwelling for the said impotent poor, and also to place inmates, or more families than one in one cottage or house; one Act made in the one and thirtieth year of Her Majesty's reign, intituled An Act

Overseers may with consent of lord of manor, build houses on the waste for the impotent poor;

BINDING APPRENTICES—continued.

The signing of the indenture by a parish apprentice was not necessary to its validity; and an apprentice might be bound for an indefinite time: *Decisions on sect. 3.*
Rex v. Wolstanton, Bott.

An infant may bind himself apprentice, for it is for his own benefit: *Rex v. St. Mary, Reading, Bott.*

If a parish apprentice was bound, it was not necessary to the validity of the indenture that the master should sign a counterpart: *Rex v. Fleet, Cald. 31.*

A girl of eight years of age might be bound apprentice: *Rex v. Saltern, Bott.; Cald. 444.*

An indenture binding a girl apprentice was not void for want of the alternative "or till marriage," nor voidable unless it was by the parties themselves: *Rex v. St. Petrox, Burr. S. C. 249; 1 Wils. 96.*

A binding by one churchwarden (where by custom there was but one), and one overseer, was good within 43 Eliz. c. 2, s. 3: *Rex v. Earl Shilton, 1 B. & Ald. 275.*

The binding is good under 43 Eliz. c. 2, s. 3, though the master is neither an inhabitant nor occupier within the parish, provided he became a party to the indenture. Before 56 Geo. 3, c. 139, parish officers had power to bind apprentice the child of a person settled in and receiving relief from the parish, the child also being settled in the parish, though such child at the time of the binding resided out of the parish and was not a party to the indenture, and though the child at the time was not a burden to the parish: *Rex v. St. George, Exeter, 3 A. & E. 373; 4 L. J. M. C. 100; 5 N. & M. 61.*

Where a contract is in itself ambiguous, it is a question for the sessions to determine whether it was a contract of hiring or a contract of apprenticeship. The question in such case is, was the object of one of the parties to the contract to teach, and the other to learn; if so it is a contract of apprenticeship: *Thorpe. v. Cole, 2 Cr. M. & W. 367; 5 L. J. Exch. 25; 1 M. & W. 531; 5 Tyrw. 1047.*

and place
inmates there;
see 31 Eliz.
c. 7.

against the erecting and maintaining of Cottages (a), or any thing therein contained, to the contrary notwithstanding; which cottages and places for inmates shall not at any time after be used or employed to or for any other habitation, but only for impotent and poor of the same parish, that shall be there placed from time to time by the churchwardens and overseers of the poor of the same parish, or the most part of them; upon the pains and forfeitures contained in the said former Act made in the said one and thirtieth year of Her Majesty's reign (b).

Appeal against
rates, &c. to
the quarter
sessions.

V. Provided always, that if any person or persons shall find themselves grieved with any sess or tax or other act done by the said churchwardens and other persons, or by the said justices of peace, that then it shall be lawful for the justices of peace at their general quarter sessions, or the greater number of them, to take such order therein as to them shall be thought convenient, and the same to conclude and bind all the said parties (c).

(a) Repealed by 15 Geo. 3, c. 32. 1 Vict. c. 50; and 5 & 6 Vict.

(b) See 9 Geo. 1, c. 7, s. 4; 59 c. 18.

Geo. 3, c. 12, ss. 8, 9; 1 & 2 Geo. 4, (c) See 17 Geo. 2, c. 38, ss. 4, 6, 7;
c. 56; and 4 & 5 Will. 4, c. 76, 41 Geo. 3, c. 23; and 6 & 7 Will. 4,
s. 23; 5 & 6 Will. 4, c. 69, s. 3; c. 96; 32 & 33 Vict. c. 41, s. 13.

APPEAL.

*Decisions on
sect. 5.*

The time of appeal under 43 Eliz. c. 2, s. 5, was unlimited: *Rex v. Bowin*; but see *Rex v. Worcester*, 5 M. & S. 457, *post*.

The inhabitants are aggrieved as soon as money is improperly assessed upon them for an illegal purpose, and they could appeal against the rate without waiting till it was raised and expended, when they could appeal against the allowance of the overseers' accounts: *Rex v. Micklefield, Bott*.

If an order be made by the sessions directing a new rate, it must appear on the face of the notice that it was on an appeal, as,—by a recital of the former order: *Garret v. Foot*, Comb. 133.

The sessions may quash a whole rate, and either make a new one themselves, or order the churchwardens to make one: *Case of St. Leonard's, Shore-ditch*, Holt, 508; Salk. 472.

The sessions cannot make an original order to the overseers to make a rate: *Rex v. East Aberford*, 2 Ld. Raym. 798; S. P. 1 Keb. 685.

The sessions may amend defects of form in their statement of a special case: *Rex v. Matthews*, Cald. 1.

Justices have no authority to make a standing rate, or to confirm an old rate, for the rate must be continually altered as circumstances alter: *Rex v. Audley*, 2 Salk. 526.

An appeal against a poor rate need not under 43 Eliz. c. 2, s. 5, be to the next quarter sessions: *Rex v. St. Giles*, 11 Mod. 259; Vin. Abr. 417.

County sessions or justices have no authority with regard to rates made in a corporate town which has justices: *Rex v. St. Mary, Taunton*, Bott.

An appeal from a poor rate may be made to a borough sessions exclusive of the county: *Rex v. Taunton Borough*, Fort. 325.

APPEAL—continued.

Before 41 Geo. 3, c. 23, on an appeal against a poor rate on account of certain persons having been left out of the rate, the notice given by the appellant to the overseers of the appeal must expressly state the names of the persons omitted from the rate; and it must have appeared either in the caption or the body of the rate that the persons so omitted were liable to be rated: *Rex v. Berkshire JJ.*, 3 Doug. on Elections, 132. *Decisions on sect. 5.*

If upon removal of an order of sessions adjudging that certain persons ought to be added to a poor rate, and ordering the rate to be amended accordingly, the sessions omit to state that such persons had notice, or appeared and were heard on the appeal, it is fatal: *Rex v. Andover*, Cowp. 550.

The justices at sessions on stating a case on an appeal from a poor rate, cannot permit a material fact to be omitted in order to bring a general question before the court, though the counsel on each side consent to it: *Rex v. Hill*, Cowp. 613.

If the sessions expressly find a fact, although they appear to have drawn their conclusion from wrong premises, the parties are bound by it: *Rex v. Minchinhampton*, 3 Burr. 1310; 4 T. R. 473.

The remedy against a rate in which personal property was totally omitted, was by appeal to the sessions, for the court would not grant a *mandamus* in such a case: *Rex v. Canterbury*, 4 Burr. 2290.

The appeal against a poor rate must now be in all cases to the next sessions, for the 17 Geo. 2, c. 38, s. 7, has repealed the 43 Eliz. c. 2, s. 5, which left the appeal to any sessions: *Rex v. Coode, Bott*.

An appeal against a poor rate must be to the next sessions after the publication of the rate, for it is by making the rate that the person is aggrieved: *Rex v. Micklefield, Bott*.

An appeal against a poor rate must be lodged at the sessions next after the allowance of it: *Rex v. Atkins*, 4 T. R. 12.

The sessions confirming a rate on one ground will not render it valid, if it be radically bad on another ground: *Rex v. Newcomb*, 4 T. R. 368.

If a person appeal against a poor rate on the ground that he has no rateable property in the parish, the respondents must first establish the case: *Rex v. Newbury*, 4 T. R. 475.

The sessions on an appeal for not rating personal property must be satisfied that the property belongs to the person intended to be rated, and that it was productive of profit, before they can quash the rate: *Rex v. Dursley*, 6 T. R. 53.

If a person be aggrieved by a rate being made for a longer period than is necessary, he must object to it by an appeal to the sessions: *Durrant v. Boys and Burgis*, 6 T. R. 580.

Where the appellant disputes before the sessions the quantum of the rate, it is not sufficient for the respondent to show that the appellant is in possession of some rateable property within the parish; they must also show some probable ground for the amount at which they charge him in the rate: *Rex v. Topham*, 12 East, 546.

The person who objects to a poor rate may appeal to the next sessions, for which he is in time to give an effectual notice of appeal after the publication of the rate; and one intervening day between such publication and the next immediate sessions is not sufficient time for the purpose: *Rex v. Sussex JJ.*, 15 East, 206.

Several persons having a joint grievance, such as the omission of persons from the rate who ought to be rated, may join in giving one notice of appeal: *Rex v. Sussex JJ.*, 15 East, 206.

On an appeal against a rate on the ground that a person is not rated for his stock-in-trade, the sessions, it was held, ought to amend the rate and not quash it: *Rex v. Ambleside*, 16 East, 380.

Poor shall be maintained by their parents or children :

VI. And be it further enacted, that the father and grandfather, and the mother and grandmother, and the children (a), of every poor old blind lame and impotent person, or other poor person not able to work, being of a sufficient ability, shall at their own charges relieve and maintain every such poor person, *in that manner and according to that rate, as by the justices of the peace of that county, where such sufficient persons dwell, or the greater number of them, at their general quarter sessions (b), shall be assessed ; upon pain that every one of them shall forfeit twenty shillings for every month which they shall fail therein (c).*

(a) See 4 & 5 Will. 4, c. 76, s. 56; 58, 59, 71, 78; 7 & 8 Vict. c. 101, s. 25; 11 & 12 Vict. c. 43; 11 & 12 Vict. c. 110, s. 8; 31 & 32 Vict.

(b) See 59 Geo. 3, c. 12, s. 26.

(c) See 7 Jac. 1, c. 4, s. 8; 5 Geo. 1, c. 8, s. 1; 59 Geo. 3, c. 12, s. 26; c. 93, ss. 13, 14. and 4 & 5 Will. 4, c. 76, ss. 56, 57,

APPEAL—continued.

Decisions on sect. 5.

Where corporation justices consist of a greater number than four, an appeal lies to them at sessions against a poor rate, although there be less than four who are devoid of interest in the question: *Rex v. Essex JJ.*, 5 M. & S. 513.

Where on an appeal against a poor rate on the ground that the appellant was overrated, the practice at the sessions requiring the appellant to begin, which he refused to do, and the appeal was dismissed, the court refused a *mandamus* to the sessions to rehear the appeal on this objection: *Rex v. Suffolk JJ.*, 5 M. & S. 513.

Where overseers' accounts allowed by justices were delivered to the succeeding overseers so late that they could not appeal to the next sessions, it was held that an appeal to the next practicable sessions was in time, and that the justices might then respite the appeal, though the respondents objected to the delay: *Rex v. Thackwell*, 4 B. & C. 62.

Upon an appeal against an order for the allowance of overseers' accounts, it was held that a magistrate, or rated inhabitant of the parish could not vote either on the determination of the appeal, or on a question as to granting a case for the opinion of a higher court: *Rex v. Gudridge*, 5 B. & C. 459.

A parishioner has no right of appeal against a rate on the ground that he is not rated, no particular grievance being shown, and it appearing that no rate is laid on similar property in the parish: *Rex v. George*, 6 A. & E. 305.

That the court has decided against a poor rate for one year, is no reason why it should not decide in favour of a poor rate for another and a different year, in respect of the same property, and in a suit between the same individuals. The doctrine of *res judicata* does not apply to such a case: *Leith Harbour and Docks Commissioners v. Inspector of the Poor*, L. R. 1 Scotch Appeals, 17.

The doctrine of *res judicata* does not apply if a decree be obtained by arrangement between the contending parties, the court bestowing no judicial examination on the merits of the question: *Jenkins*, app., *Robertson*, resp., L. R. 2 Scotch App. 117.

WHAT RELATIONS ARE LIABLE.

Decisions on sect. 6.

The word "children" extends to grandchildren, and "parents" to grandparents: *Walton v. Spark*, Sett. & Rem. 159; Comb. 321.

The reputed grandfather of a poor orphan child cannot be ordered to maintain it, for one who is illegitimate is not within 43 Eliz. c. 2, s. 6: *Rex v. Reeve*, 2 Bulst. 344; Bott.

WHAT RELATIONS ARE LIABLE—*continued*.

If a grandmother, being of sufficient ability, be ordered to maintain a poor grandchild, and afterwards marries, her husband shall be liable to the maintenance, but not as a grandfather: *Draper v. Glenfield*, 2 Bulst. 345; Bott. *Decisions on*
sect. 6.

Per Holt, C. J. in Gerard's case, although the grandmother died, and so the relation was determined, yet the statute was construed by equity that he was a grandfather within the statute: *Rex v. Barney*, Comb. 405.

A husband during the lifetime of his wife is bound under 43 Eliz. c. 2, s. 6, to maintain her children by her former husband; but not after, and therefore the order must set out that the wife is living: *Reg. v. St. Botolph's, Aldgate*, Foley, 42; Bott.

The husband of a grandmother, although he is of ability by the care and industry of his wife, is not bound to maintain her grandchild unless she was a woman of sufficient ability at the time of the intermarriage, and shall then only be charged during the lifetime of his wife: *Gerrard's case*, Foley, 43; 2 Bulst. 347; Bott.

A *feme covert* cannot be ordered to keep her grandchild: *Custodes v. Julies*, 2 Styles, 283; Bott.

A Jew, who has turned his daughter out of doors for embracing Christianity, is not compellable to maintain her under 43 Eliz. c. 2, s. 6. [This case led to the passing of the 1 Anne, stat. 1, c. 30, "An Act to oblige the Jews to maintain and provide for their Protestant children." It was, however, afterwards repealed by 9 & 10 Vict. c. 59, s. 1]: *Rex v. Mendes de Breta*, 3 Ld. Ray. 699; Bott.

An order cannot be made under 43 Eliz. c. 2, s. 6, for the maintenance of one who is illegitimate: *Budwath v. Dumpy*, Salk. 123; Bott.

Under 43 Eliz. c. 2, s. 6, a husband cannot be ordered to maintain his wife: *Rex v. Davison*, 11 Mod. 268; 2 Bulst. 344; Comb. 418.

A husband cannot be ordered to maintain his daughter-in-law after the death of his wife: *Reg. v. Clentham*, Bott.; Foley 33; Comb. 405.

An order that the grandfather should keep his grandchild, the father being living, but unable to do it; and also to pay so much money for the time past while he was chargeable, as well as for the time to come, was allowed good: *Reg. v. Joyce*, 16 Vin. Abr. 423, Bott.

A man is not bound to maintain his son's wife: *Rex v. Dunn*, Bott.; 10 Mod. 221.

A man is not bound to maintain his wife's mother, though he may have had a good fortune with his wife: *Rex v. Munden (Munday)*, 1 Str. 190; S. C. Fort. 303; 2 Ld. Raym. 1454.

An order upon the father to maintain his son's wife after a divorce *a mensa et thoro* for adultery, was quashed on the authority of *Rex v. Munden (Munday)*, she not being a natural relation of the father: *Rex v. Dempson*, 2 Str. 955.

A man is not bound to maintain his daughter-in-law nor his son's widow: *Rex v. Bwvire*, Bott.; 2 Ld. Ray. 1454; 2 Sess. Ca. 56; *Rex v. Davis*, Bott.

The 43 Eliz. c. 2, s. 6, only extends to natural relations and not to relations in law, and therefore a father is not bound to maintain the son's wife: *Rex v. Kempson*, Bott.; Sess. Ca. 230; 2 Str. 955.

The father-in-law of a pauper is not obliged to maintain him: *Case of Woodfred and Lilburn*, Bott.

A husband is not bound to maintain his wife's child by a former husband: *Tubb v. Harrison*, 4 T. R. 118; *Cooper v. Martin*, 4 East, 76.

WHAT RELATIONS ARE LIABLE—*continued*.

*Decisions on
sect. 6.*

A father may leave his children without any maintenance, and the parish have no remedy against his executors: *Rawlins v. Goldfrap*, 5 Ves. Jr. 444.

There is no legal obligation on one brother to maintain another, so as to make the omission indictable: *Rex v. Smiths*, 2 Car. & P. 449.

Before the justices have made an order under 43 Eliz. c. 2, s. 6, there is only a moral, not a legal obligation on a son to support his poor and aged father. The legal obligation first attaches on order made: *Reg. v. Ireland*, 17 L. T. (N. S.) 467; L. R. 3 Q. B. 130; 37 L. J. Q. B. 73; 9 B. & S. 19.

ORDER OF JUSTICES ON RELATION.

The justices of the district in which the person on whom the order was to be made dwells, had alone jurisdiction: *Rex v. Reeve*, 2 Bulst. 344.

The order must show that the person charged is within the jurisdiction of the sessions: *Rex v. Woodford, Bott*.

The justices at sessions must set the rate of maintenance, and cannot delegate their authority: *Rex v. Humphries, Bott*; Styles, 154.

The justices cannot remove poor persons from their own parish to that where their relations live who are liable to maintain them: *Shermanbury v. Bolney, Bott*; Comb. 279.

Under 43 Eliz. c. 2, s. 6, an order of maintenance was to be made at a quarter and not at a general session (but see 59 Geo. 3, c. 12, s. 26): *Rex v. Chamort, Bott*; *Purnal's case*, Salk, 476.

An order of maintenance cannot direct the pauper to be sent to the person on whom it is made: *Rex v. Jones, Foley*, 53; *Bott*.

The authority of the sessions in making orders of maintenance is original; but they may make such orders on the appeal of overseers against the relation of the poor person: *Rex v. Kempson, Bott*; Salk. 474, 476.

ORDER OF MAINTENANCE.

The pauper must be adjudged to be poor or likely to become chargeable: *Rex v. Mendes des Breta, Ld. Raym.* 699; *Bott*.

An order of maintenance to pay a certain sum till the court shall order to the contrary, is a good order: *Jenkins' Case, Bott*; 2 Salk. 534.

An order on a father-in-law to maintain his daughter-in-law must state that he is of sufficient ability: *Rex v. Halifax, Bott*; Sett. & Rem. pl. 52; but see *Rex v. Dunn*, 10 Mod. 221.

Persons to be relieved must be adjudged chargeable to the parish: *Rex v. Tripping, Vin. Abr.* 424.

The order must state that the poor person is unable to work: *Rex v. Gulley, Foley*, 47.

There must be an adjudication that the pauper is impotent: *Rex v. Litton, Bott*; Sett. & Rem. pl. 111.

The order must be positive, not by way of recommendation; it must observe the words of the statute, and state how long the maintenance is to continue: *Rex v. Pennoyer, Bott*.

Disobedience to an order under 43 Eliz. c. 2, s. 6, is indictable: *Rex v. Robinson*, 2 Burr. 799.

VII. And be it further hereby enacted, that the mayors and bailiffs or other head officers of every town and place corporate and city within this realm (*d*), being justice or justices of peace, shall have the same authority by virtue of this Act within the limits and precincts of their jurisdictions, as well out of sessions as at their sessions, if they hold any, as is herein limited prescribed and appointed to justices of the peace of the county, or any two or more of them, or to the justices of peace in their quarter sessions, to do and execute for all the uses and purposes in this Act prescribed, and no other justice or justices of peace to enter or meddle there (*e*); and that every alderman of the city of London within his ward shall and may do and execute in every respect so much as is appointed and allowed by this Act to be done and executed by one or two justices of peace of any county within this realm.

Authority of
officers in
corporations;

and of alder-
men of
London.

VIII. And be it also enacted, that if it shall happen any parish to extend itself into more counties than one, or part to lie within the liberties of any city town or place corporate, and part without, that then as well the justices of peace of every county as also the head officers of such city town or place corporate, shall deal and intermeddle only in so much of the said parish as lieth within their liberties, and not any further; and every of them respectively within their several limits wards and jurisdictions to execute the ordinances before mentioned, concerning the nomination of overseers, the consent to binding

Proviso where
parish extends
into two coun-
ties, liberties,
&c.

(*d*) See 12 Vict. c. 8, ss. 1, 3, 4. 12 & 13 Vict. c. 8, s. 1; 12 & 13

(*e*) See 17 Geo. 2, c. 38, s. 8; 1 Geo. Vict. c. 64; and 15 & 16 Vict. c. 38.
4, c. 36; 5 & 6 Will. 4, c. 76, s. 105;

ORDER OF MAINTENANCE—continued.

Where an allowance is ordered to be made weekly to a pauper, it is due at the beginning of the week: *Rex v. Fearney*, 1 T. R. 316. Decisions on
sect. 6.

An order of justices directing A. to pay to the churchwardens and overseers of a parish a weekly sum for the maintenance of B. and C., his grandsons, as long as they shall be chargeable to the parish, is good without stating that their father is unable, absent, or dead: *Rex v. Cornish*, 2 B. & Ad. 498.

An order under 43 Eliz. c. 2, s. 6, and 59 Geo. 3, c. 12, s. 26, describing the person against whom the order is made as "of" the parish of —, in the county of —, shows distinctly enough that he dwells within that county, so as to give the justices jurisdiction (but now see 31 & 32 Vict. c. 122, ss. 33, 36): *Reg. v. Toke*, 8 A. & E. 227; 7 L. J. M. C. 74; 3 N. & P. 323.

An order of maintenance directing payments to be made so long as the poor person shall be "chargeable" is bad; the word "chargeable" not being equivalent to "not being able to work." If the order direct an entire sum to be paid for the maintenance of three so long as the three shall be chargeable is bad as to all: *Re Morten*, 5 Q. B. 591; S. C. *Reg. v. Martin*, 13 L. J. M. C. 85.

A commitment under 4 & 5 Will. 4, c. 76, ss. 78, 99, for recovery of the penalty imposed by 43 Eliz. c. 2, s. 6, for disobeying an order of justices to maintain a relative, is in the nature of criminal process, and therefore a bankrupt in custody under it was not entitled to protection under 12 & 13 Vict. c. 106: *Bancroft v. Mitchell*, 8 B. & S. 558; 16 L. T. (N. S.) 558; 36 L. J. Q. B. 257; 2 L. R. Q. B. 549; 31 J. P. 693.

apprentices (*f*), the giving warrant to levy taxations unpaid, the taking account of churchwardens and overseers, and the committing to prison such as refuse to account, or deny to pay the arrearages due upon their accounts; and yet nevertheless, the said churchwardens and overseers or the most part of them of the said parishes that do extend into such several limits and jurisdictions, shall without dividing themselves, duly execute their office in all places within the said parish in all things to them belonging, and shall duly exhibit and make one account before the said head officer of the town or place corporate, and one other before the said justices of peace, or any such two of them as is aforesaid.

Penalty on justices, &c. for neglect in nominating overseers, *5l.*

IX. And further be it enacted, by the authority aforesaid, that if in any place within this realm there happen to be hereafter no such nomination of overseers yearly as is before appointed, that then every justice of peace of the county, dwelling within the division where such default of nomination shall happen, *and every mayor alderman and head officer of city town or place corporate where such default shall happen, shall lose and forfeit for every such default five pounds (g)*; to be employed towards the relief of the poor of the said parish or place corporate, and to be levied as aforesaid of their goods, by warrant from the general sessions of the peace of the said county, or of the same city town or place corporate if they keep sessions (*h*).

Levying and application of penalties.

X. And be it also enacted by the authority aforesaid, that all penalties and forfeitures, before mentioned in this Act to be forfeited by any person or persons, shall go and be employed to the use of the poor of the same parish, and towards a stock and habitation for them, and other necessary uses and relief, as before in this Act are mentioned and expressed; and shall be levied by the said churchwardens and overseers, or one of them, by warrant from any two such justices of peace, or mayor alderman or head officer of city town or place corporate respectively within their severallimits, by distress and sale thereof, as aforesaid, or in defect thereof it shall be lawful for any two such justices of peace, and the said aldermen and head officers, within their several limits, to commit the offender to the said prison, there to remain without bail or mainprize till the said forfeitures shall be satisfied and paid.

* * * * *

General issue may be pleaded in actions for distresses, &c., under this Act.

XVIII. And be it further enacted, that if any action of trespass or other suit shall happen to be attempted and brought against any person or persons, for taking of any distress making of any sale or any other thing doing by authority of

(*f*) See 3 & 4 Will, 4, c. 63, s. 3. (*h*) See 15 & 16 Vict. c. 81, s.

(*g*) See 12 & 13 Vict. c. 8, 31.

ss. 2, 4.

this present Act, the defendant or defendants in any such action or suit shall and may either plead not guilty, or otherwise make avowry cognizance or justification, for the taking of the said [distresses*] making of sale or other thing doing by virtue of this Act; alleging in such avowry cognizance or justification that the said distress sale trespass or other thing whereof the plaintiff or plaintiffs complained, was done by authority of this Act, and according to the tenor purport and effect of this Act, without any expressing or rehearsal of any other matter of circumstance contained in this present Act; to which avowry cognizance or justification the plaintiff shall be admitted to reply, that the defendant did take the said distress, made the said sale, or did any other act or trespass supposed in his declaration, of his own wrong, without any such cause alleged by the said defendant; whereupon the issue in every such action shall be joined, to be tried by verdict of twelve men and not otherwise, as is accustomed in other personal actions: And upon the trial of that issue the whole matter to be given on both parties in evidence according to the very truth of the same; and after such issue tried for the defendant, or non-suit of the plaintiff after appearance, the same defendant to recover treble damages, by reason of his wrongful vexation in that behalf, with his costs also in that part sustained, and also that to be assessed by the same jury or writ to inquire of the damages, as the same shall require (*i*).

* * * * *

[*] *distress* orig.

(*i*) See 7 Jac. 1, c. 5; 21 Jac. 1, c. 12; and 5 & 6 Vict. c. 97, s. 2.

VEXATIOUS ACTION.

If trespass be brought against overseers after a voluntary delivery of goods it is vexatious, and they were held entitled to treble damage assessed, and costs at the discretion of the court: *Oakley v. Salter*, 1 Yelv. 176. *Decision on sect. 10.*

7 JAC. I. CHAP. 5.

An Act for Ease in pleading against troublesome and contentious Suits, prosecuted against Justices of the Peace Mayors Constables and certain other His Majesty's Officers, for the lawful Execution of their Office (*k*).

For ease in pleading against many causeless and contentious Justices of suits which have been and daily are commenced and prosecuted by peace, constables, &c.

(*k*) See 11 & 12 Vict. c. 44, s. 17, c. 5, as is inconsistent with the provisions of that Act.

sued for acts
done in execu-
tion of their
office, may
plead the
general issue.

cuted against justices of peace mayors or bailiffs of cities and towns corporate headboroughs portreves constables tithingmen collectors of subsidies and fifteens, who for due execution of their office have been troubled and molested and still are like to be troubled and molested by evil disposed contentious persons, to their great charge and discouragement in doing of their offices ; be it therefore enacted by our sovereign lord the King and by the Lords spiritual and temporal and Commons in this present parliament assembled and by the authority of the same, that if any action bill plaint or suit upon the case trespass battery or false imprisonment shall be brought after forty days next after the end of this session of parliament in any of His Majesty's courts at Westminster or elsewhere, against any justice of the peace mayor or bailiff of city or town corporate headborough portreve constable tithingman collector of subsidy or fifteens for or concerning any matter cause or thing by them or any of them done by virtue or reason of their or any of their office or offices, that it shall be lawful to and for every such justice of the peace mayor bailiff constable or other officer or officers before named, and all others which in their aid or assistance or by their commandment shall do any thing touching or concerning his or their office or offices, to plead the general issue that he or they are not guilty, and to give such special matter in evidence to the jury which shall try the same which special matter being pleaded had been a good and sufficient matter in law to have discharged the said defendant or defendants of the trespass or other matter laid to his or their charge ; and that if the verdict shall pass with the said defendant or defendants in any such action, or the plaintiff or plaintiffs therein become nonsuit or suffer any discontinuance thereof, that in every such case the justices or justice or such other judge before whom the said matter shall be tried shall by force and virtue of this Act allow unto the defendant or defendants his or their double costs (a) which he or they shall have sustained by reason of their wrongful vexation in defence of the said action or suit, for which the said defendant or defendants shall have like remedy as in other cases where costs by the laws of this realm are given to the defendants (b).

double costs
on verdict for
them.

* * * * *

(a) See 5 & 6 Vict. c. 97, s. 2. second section was repealed by 26 &
(b) This statute was made per- 27 Vict. c. 125
petual by 21 Jac. 1, c. 12. The

21 JAC. I. CHAP. 12.

An Act for Ease in pleading, against troublesome and contentious Suits.

WHEREAS an Act, intituled, 'An Act for Ease in pleading St. 7 Jac. I. against troublesome and contentious suits prosecuted against c. 5, made Justices of the Peace Mayors Constables and certain other perpetual. His Majesty's Officers, for the lawful execution of their Office, made in the seventh year of His Majesty's most happy Reign of England, was made to continue but for seven years, and from thence to the end of the next parliament after the said seven years, which by experience hath since been found to be a good and profitable law:"

* * * * *

II. And be it further enacted by the authority aforesaid, that all churchwardens, and all persons called sworn-men, executing of the office of churchwardens, and all overseers of the poor, and all others which in their aid or assistance, or by their commandment shall do anything touching or concerning his or their office or offices, shall hereafter be enabled to receive and have such benefit and help by virtue of the said Act, to all intents constructions and purposes as if they had been specially named therein.

Churchwardens and overseers shall have the benefit of recited Act.

III. And whereas notwithstanding the said statute the plaintiff is at liberty to lay his action which he shall bring against any justice of peace or other officer, in any foreign county at his choice, which hath proved very inconvenient unto sundry of the officers and persons aforesaid, that have been impleaded by some contentious and troublesome persons in counties far remote from their places of habitations; be it therefore further enacted by the authority aforesaid, that if any action bill plaint or suit upon the case trespass battery or false imprisonment, shall be brought after the end of this present session of parliament, against any justice of peace mayor or bailiff of city or town corporate headborough portreve constable tithing-man collector of subsidy or fifteens churchwardens and persons called sworn-men, executing the office of churchwarden or overseer of the poor and their deputies, or any of them, or any other which in their aid or assistance, or by their commandment shall do anything touching or concerning his or their office or offices, for or concerning any matter cause or thing by them or any of them done by virtue or reason of their or any of their office or offices, that the said action bill plaint or suit shall be laid within the county where the trespass or fact shall be done and committed, and

Actions brought against justices, &c. in foreign counties;

actions against justices of peace, corporate officers, constables, churchwardens, &c., shall be laid in the county where the fact was committed.

Defendants
may plead
general issue.

On failure of
proof of
locality of
cause of action,
defendant
shall have
verdict, and
double costs.

not elsewhere; and that it shall be lawful to and for all and every person and persons aforesaid, to plead thereunto the general issue, that he or they are not guilty, and to give such special matter in evidence to the jury which shall try the same, as in or by the said former Act is limited or declared: And that if upon the trial of any such action bill plaint or suit, the plaintiff or plaintiffs therein shall not prove to the jury which shall try the same, that the trespass battery imprisonment or other fact or cause of his her or their such action bill plaint or suit, was or were had made committed or done within the county wherein such action bill plaint or suit shall be laid, that then, in every such case the jury which shall try the same shall find the defendant and defendants in every such action bill plaint or suit not guilty, without having any regard or respect to any evidence given by the plaintiff or plaintiffs therein, touching the trespass battery imprisonment or other cause for which the same action bill plaint or suit is or shall be brought: And if the verdict shall pass with the defendant or defendants in any such action bill plaint or suit, or the plaintiff or plaintiffs therein become nonsuit or suffer any discontinuance thereof, that in every such case the defendant or defendants shall have such double costs, and all other advantages and remedies as in and by the said former Act is limited directed or provided (*a*).

14 CAR. II. CHAP. 12.

An Act for the better Relief of the Poor of this Kingdom (*b*).

Rot. Parl.
14 Car. 2, p. 2,
nu. 5.

Recital of the
increase of the
poor, and that
the same arises
from defect in
the poor laws
and want of
employment.

WHEREAS the necessity number and continual increase of the poor not only within the cities of London and Westminster with the liberties of each of them but also through the whole kingdom of England and dominion of Wales is very great and exceeding burthensome being occasioned by reason of some defects in the law concerning the settling of the poor and for want of a due provision of the regulations of relief and employment in such parishes or places where they are legally settled which doth enforce many to turn incorrigible rogues and others to perish for want together with the neglect of the faithful execution of such laws and statutes as have formerly been made

(*a*) See 11 & 12 Vict. c. 44, s. 17, which repeals so much of this section as is inconsistent with the provisions of that Act.

(*b*) Continued by 1 Jac. 2, c. 17; 3 Wm. & M. c. 11, s. 2, and made perpetual by 12 Anne, st. 1, c. 18.

for the apprehending of rogues and vagabonds and for the good of the poor For remedy whereof and for the preventing the perishing of any of the poor whether young or old for want of such supplies as are necessary May it please your most excellent Majesty that it may be enacted and be it enacted by the King's most excellent Majesty by and with the advice and consent of the Lords spiritual and temporal and the Commons in this present parliament assembled and by the authority of the same that whereas by reason of some defects in the law poor people are not restrained from going from one parish to another and therefore do endeavour to settle themselves in those parishes where there is the best stock the largest commons or wastes to build cottages and the most woods for them to burn and destroy and when they have consumed it then to another parish and at last become rogues and vagabonds to the great discouragement of parishes to provide stocks where it is liable to be devoured by strangers *Be it therefore enacted by the authority aforesaid that it shall and may be lawful upon complaint made by the churchwardens or overseers of the poor of any parish (c) to any justice of peace within forty days after any such person or persons coming so to settle as aforesaid in any tenement under the yearly value of ten pounds (d) for any two justices of the peace whereof one to be of the quorum of the division where any person or persons that are likely (e) to be chargeable to the parish shall come to inhabit by their warrant to remove and convey such person or persons to such parish where he or they were last legally settled either as a native householder sojourner apprentice or servant for the space of forty days at the least unless he or they give sufficient security for the discharge of the said parish to be allowed by the said justices (f).*

Reasons for passing this Act.

Justice of the peace may remove persons coming to settle in tenement under £10 per annum to last settlement.

- (c) See 28 & 29 Vict. c. 79, ss. 2, 3. 13 Geo. 2, c. 29; 35 Geo. 3, c. 101, s. 1; 54 Geo. 3, c. 170, s. 10; 59 Geo. 3, c. 50; 5 Geo. 4, c. 83, s. 3; 6 Geo. 4, c. 57; 1 Will. 4, c. 18; 4 & 5 Will. 4, c. 76, s. 66; 9 & 10 Vict. c. 66, s. 1; 24 & 25 Vict. c. 55, s. 1; 28 & 29 Vict. c. 79, s. 8; and 3 & 4 Wm. & M. c. 11, ss. 3, 10; 29 & 30 Vict. c. 114, s. 17.

BIRTH SETTLEMENT—LEGITIMATE CHILDREN.

Birth makes a good settlement, and the labour lies on them where the child was born to find another: *Spitalfields v. St. Andrew's, Holborn*, Fort. 307. *Decisions on sect. 1.*

If the mother of a child born in one parish die in another parish while she is passing to a third, the child shall not be settled where it was left destitute by the death of its mother, but shall be settled where born: *Case of Clavelly and Burton*, 2 Bulst. 351.

A legitimate child, where the settlement of its parent is unknown, gains a settlement by birth; but where the settlement of the parent of such a child is known, it follows the settlement of its parent: *Whitechapel v. Stepney*, Carth. 433.

If the place of settlement either by parentage or birth be not known,

BIRTH SETTLEMENT—LEGITIMATE CHILDREN—*continued.*

*Decisions on
sect. 1.*

the place where a child is first known to be is its settlement: *Dalton*, 168; *S. P. Comb*, 364.

Birth only gives a settlement to a legitimate child when that of the father is not known: *Reg. v. St. Giles*, 1 Sess. Ca. 18.

The primary settlement by birth may be vacated by a new settlement by parentage, although the child be under seven years of age: *Cunner v. Milton*, 6 Mod. 87; 2 Salk. 528.

A poor infant, an orphan or deserted, is to be maintained by the parish where born if it has not obtained another settlement: *Spitalfields v. St. Andrew, Holborn*, 1 Ld. Raym. 567.

The father's settlement is the settlement of the children when it can be found out; but the birth place of the child is *primâ facie* its settlement until another is found out: *Cripplegate v. St. Saviour's*, Fol. 265; *S. C.* 11 Mod. 267; *Bott*.

The settlement by birth may be proved by the copy of the parish register of christenings, and by identifying the person: *Rex v. Creech, St. Michael, Burr.* *S. C.* 765.

The birth of a pauper removed as a married woman is sufficient *primâ facie* evidence of the settlement to oblige the other side to go on: *Rex v. Woodford, Bott.*; *Cald.* 236.

The place of birth is *primâ facie* the place of settlement: *Rex v. Heaton Norris*, 6 T. R. 653.

The place of birth of a legitimate child shall be taken to be the place of its settlement, although it appear that its father is still living, and had served two years in a different parish; for *non constat* the service was under a hiring for a year: *Rex v. Whitley, Bott.*

The sessions having decided in favour of a settlement in A., by which the pauper's father was proved to have been relieved while resident in another parish 40 years previously, and before the pauper's birth, and the only evidence to oppose this being that of the pauper's own birth in B., the court confirmed the order of the sessions: *Rex v. Wakefield*, 5 East, 335.

A child, eight years old, born in England, but whose parents were both Irish, and without any settlement in England, and whose mother after the death of her first husband married a settled inhabitant of parish A., is removable to the place of his birth, and was not within 55 Geo. 3, c. 12, s. 33: *Rex v. Great Clacton*, 3 B. & Ald. 410.

A register of baptism *per se* is no evidence of the place of birth of the person baptised: *Rex v. North Petherton*, 5 B. & C. 508.

A pauper's earliest recollection was of being in the workhouse of parish A., when he was about four years of age, he remained till he was 13 or 14. He married and lived in another parish, but when out of work he returned on two different occasions to parish A., and was not only relieved there but received money from the parish officers to enable him to return to the parish where he lived. The sessions having found that he was not settled in parish A. the court affirmed their decision. The fact of the pauper's remembering himself when 4 years of age in parish A. is not evidence that he was born there: *Rex v. Trowbridge*, 7 B. & C. 252.

Appellants against an order of removal to establish a birth settlement proved, (1), the marriage of the father and mother at K. in 1749, (2), the baptism at K. of their four children, viz. M. in 1751, I. in 1753, E. 1755, and S. in 1756; held that the sessions were not bound to infer from this evidence that E. was born at K.: *Rex v. Lubbenham*, 5 B. & Ad. 968.

An entry in a register of christenings for a parish was "1775, Alexander

BIRTH SETTLEMENT—LEGITIMATE CHILDREN—*continued*.

Sharp, of John and Ann." This was held to constitute some evidence from which the sessions might presume a birth settlement: *Rex v. St. Katherine*, near the Tower, 5 B. & Ad. 970, n. *Decisions on sect. 1.*

As against birth settlement, proof of the mother's maiden settlement is sufficient to invalidate an order removing to such birth settlement, though no inquiry be made as to the father's settlement: *Rex v. St. Mary, Leicester*, 3 A. & E. 644; 7 L. J. M. C. 95.

A person born in England of Irish parents who have gained no settlement in England, is removable with his wife and family to the place of his birth, when at the time they became chargeable he is emancipated and has ceased to reside with or from any part of his parents' family: *Reg. v. Preston*, 12 A. & E. 822; 10 L. J. M. C. 22; 4 P. & D. 509.

A parish which was entire for poor law purposes had afterwards overseers appointed separately for the several townships comprised in it. A settlement was not acquired in any one of the townships by birth in the parish before overseers were appointed separately for the townships: *Reg. v. Tipton*, 11 L. J. M. C. 89; 3 Q. B. 215.

The uncle of a pauper in the examination stated that the mother was born in Y., and was the person mentioned in a certificate of baptism which was produced, and at the date of which he was less than four years old. Held evidence on which the justices might act, that the mother's birth was in Y: *Reg. v. Yelvertoft*, 6 Q. B. 801; 14 L. J. M. C. 78.

A birth settlement does not require a residence of 40 days to complete it: *Reg. v. Watford*, 16 L. J. M. C. 1; 11 J. P. 39.

Per Coleridge, J.: I take it to be a rule of law that every English born subject has a settlement, and that settlement is *primâ facie* his place of birth. It is *primâ facie* only, because the moment it is shown that either the father or the mother has gained a settlement in England, then the settlement of the child is, as the case may be, that of the father or mother. But if they have no settlement here, or what comes to the same thing, their place of settlement cannot be found out, then the child's birth settlement, which has always been potentially in existence, comes into practical effect: *Reg. v. All Saints, Derby*, 3 N. S. C. 653; 14 Q. B. 219; 14 L. T. 152; 19 L. J. M. C. 15.

Legitimate children in non-age are to look for relief under the poor law, not to the parish of their birth, but to the parish in which their father had a settlement. It is immaterial whether the settlement of the father was by origin, or by residence. The policy of the law is to prevent as far as possible the dispersion of the family. The doctrine of derivative settlement is created, not by statute, but by construction, and it exists equally in Scotland as in England. The *Jedburgh* case overruled: *Adamson v. Barbour*, 1 Macqueen, 377; 21 L. T. 145.

The proofs of the marriage of the parents of A. in parish C., in 1779; of the baptism of A. in the parish church in 1780; of the baptism of another child in 1782, and of another in 1790; and the earliest recollection of the last-mentioned child residing with her parents in the parish,—were held to afford sufficient evidence of a birth settlement in such parish: *Reg. v. Crediton*, 31 L. T. 114; 1 E. B. & E. 231; 22 J. P. 722; 27 L. J. (N. S.) M. C. 265; 4 Jur. (N. S.) 926.

An entry of the attestation of a soldier in an old regimental book, dated 1799, is not receivable in evidence of the place of birth of the pauper. *Per Cockburn, C. J.*, it is only the modern Mutiny Acts which allowed these to be admissible evidence; but they have no retrospective clause making past examinations admissible: *Reg. v. Sudbury*, 27 J. P., n, 276.

BIRTH SETTLEMENT—ILLEGITIMATE CHILDREN.

*Decisions on
sect. 1.*

A bastard by the law of England is one that is not only begotten, but born out of lawful matrimony. The civil and common laws do not allow a child to remain a bastard if the parents afterwards intermarry, and herein the law of Scotland agrees: Co. Lit. 254; 1 Ro. Abr. 357.

If the putative father of a bastard child obtain possession of it by force or fraud, the court will order it to be restored on the application of the mother: *Rex v. Soper*, 5 T. R. 278; *Rex v. Moseley*, 5 East, 223; *Rex v. Hopkins*, 7 East, 578.

A bastard is *ex necessitate* settled where born: *Whitechapel v. Stepney*, Carth. 433; Holt, 509; Comb. 364; Salk. 427, 485; Lord Raym. 567.

If any fraud be used to occasion the birth of a bastard in any particular parish, such child shall be settled, not where born, but in the parish from whence its mother was fraudulently and collusively removed: *Tewkesbury v. Twining*, 2 Bulst. 349; Sett. & Rem. 66.

A bastard born in a house of correction is not settled in the parish where such house is situated, but in its mother's parish, (see also 20 Geo. 3, c. 36, s. 2): *Suckley v. Whitborn*, 2 Bulst. 358.

If a pregnant unmarried woman be removed, and pending an appeal be delivered, her child is not settled where born if the order of removal be afterwards quashed, but in the parish from which its mother was removed: *Boreham v. Waltham*, Carth. 397.

A bastard born in the road in transitu under an order of removal is not settled where born: *Rex v. Jane Grey*, Sett. & Rem. 41.

The bastard children of lodgers in a parish are settled where they are born: *Rex v. Spitalfields*, Ld. Raym. 567.

If a woman be unjustly removed, and be delivered of a bastard child in the parish to which she was removed, pending the order, though before appeal, the child on the order being reversed is not settled where born: *Westbury v. Coston*, 2 Salk. 532.

If an unmarried pregnant woman come accidentally into one parish, and remove to another by the advice of some of the parishioners, and is there delivered, the child shall be settled where born: *Masters v. Child*, 3 Salk. 66.

A bastard born after an order of removal is made out, but before actual removal, is not by such birth settled where born, but shall go to the mother's parish (see 35 Geo. 3, c. 101, s. 6): *Rex v. Icelford*, 1 Sess. Ca. 32; 2 Bulst. 349; Str. 476; Sett. & Rem. 192, 314.

A bastard born pending an illegal order of removal shall be esteemed in law to be born in that parish whereunto the mother on the appeal is returned back: *Much Waltham v. Peram*, Salk. 474.

A bastard born in a county gaol where the mother had been committed for safe custody is not settled where born: *Elsing v. County of Hereford*, 1 Sess. Ca. 99; 10 Mod. 334.

Although the place of birth be the place of settlement of a bastard, yet while under 7 years of age it shall be removed for nurture to the mother's settlement: *Skeffreth v. Walford*, 2 Sess. Ca. 89.

Where a single woman with child is removed from A. to B., and privately returns to A. and is there delivered, the settlement of the child is in B.: In re *Landinaboe and Much Birch*, 1 Str. 476.

A bastard, though its parents were during life reputed man and wife, is settled where born: *Rex v. St. Peter's, Worcester*, Burr. S. C. 25.

The illegitimate children of a woman who is certificated from another parish, shall be settled where born, although such certificate was in force at the time of their birth: *Rex v. Hilton*, Burr. S. C. 187; 2 Str. 1168.

BIRTH SETTLEMENT—ILLEGITIMATE CHILDREN—*continued*.

The bastard of a certificated woman who is then pregnant is settled where born, although the certificate undertakes to provide for her and her child: *Rex v. Wyke*, Burr. S. C. 264. *Decisions on sect. 1.*

If a certificate expressly undertake to provide for a child that a woman is then pregnant with, such child though born a bastard shall be settled in the mother's parish and not in the parish where born: *Rex v. Ipsley*, Burr. S. C. 264, questioned in *Rex v. Mathon*, *infra*.

General declarations, or the answer of a parent in chancery are good evidence after the death of such parent to prove that a child was born before marriage, but not to prove that a child born in wedlock is a bastard: *Goodright v. Moss*, Cowp. 591.

A bastard removed as a nurse child to its mother's settlement the justices could order to be there maintained by the parish in which it was born: *Darlington v. Hemlington*, Bott. S. C. Doug. 9; Cald. 6.

A bastard born on the road while the mother is endeavouring to reach her own parish without fraud is settled where born: *Rex v. Astley*, Bott.

If a child be born under a marriage in fact, and it appears by fair conclusion that it is a bastard, the child shall be settled where born. It being stated that a child included in an order of removal was born during the cohabitation of the pauper and his supposed wife, and was baptized as their child, this was held sufficient evidence of bastardy to settle the child where born, although the former husband of the mother was in England at the time: *Rex v. Lubbenham*, 4 T. R. 251.

The child of a married woman may be proved a bastard by other evidence than that of the husband's non-access: *Goodbright on demise of Tompson v. Saul*, 4 T. R. 356.

The reputed mother is a competent witness to prove the illegitimacy of her children: *Rex v. Bromley*, 6 T. R. 330.

A bastard born several years after a certificate engaging to receive the child the mother was then pregnant with, and all other children she might afterwards have, and stating her to be an unmarried woman, is settled where born: *Rex v. Mathon*, 7 T. R. 362; see *Rex v. Ipsley*, *supra*.

Non-access of the husband need not be proved during the whole period of his wife's pregnancy. It is sufficient if the circumstances of the case show a natural impossibility that the husband could be the father of the alleged bastard; as where he had access only a fortnight before the birth: *Rex v. Luffe*, 8 East, 113.

Hearsay evidence of the declaration of a deceased father as to the place of birth of his bastard child is not admissible to prove the birth settlement of such child: *Rex v. Erith*, 8 East, 539.

A woman cannot give evidence of the non-access of her husband to bastardize her issue, though he be dead at the time of her examination as a witness: *Rex v. Kea*, 11 East, 132.

A bastard born in L. pending an order of removal of his mother from S. to L., which was afterwards quashed, was held to be settled in S., and relief given to him by the parish officers of the parish which was the birth-settlement of the mother was held not to raise a presumption of his settlement there: *Rex v. Great Salkeld*, 6 M. & S. 408.

Where a parish was divided into two districts, L. and M., each separately maintaining its own poor, and a woman who was settled in M., was removed from a third parish to L., and the order was quashed upon appeal, and pending the appeal the woman was delivered in L. of a bastard child, and afterwards she and her child having been received back by the removing

BIRTH SETTLEMENT—ILLEGITIMATE CHILDREN—*continued.*

*Decisions on
sect. 1.*

parish were removed to M.; it was held that the child's settlement was not in M., but in the removing parish: *Rex v. St. Andrew's, Holborn*, 6 M. & S. 411.

The 35 Geo. 3, c. 101, did not repeal 33 Geo. 3, c. 54, and therefore where an unemancipated daughter was delivered of a bastard child in the township of J. during her father's residence there, under a certificate acknowledging him to be a member of a friendly society established under 33 Geo. 3, c. 54, it was held that such certificate extended not only to him but to all the members of his family also; and that the daughter therefore was at the time of her delivery residing in the township under the authority of 33 Geo. 3, c. 54, and that by section 25 of that Act the settlement of the child followed that of its mother: *Rex v. Idle*, 2 B. & Ald. 149.

An illegitimate child born in an extra-parochial place did not follow the settlement of its mother: *Rex v. St. Nicholas, Leicester*, 2 B. & C. 889.

An unmarried woman settled in the parish of M. was removed from the parish of P. to the parish of S., the latter appealed, and the sessions quashed the order, but before the appeal was heard the woman was delivered of a bastard child in S. Held that her child so born was not settled in parish M.: *Rex v. Martlesham*, 10 B. & C. 77.

An unmarried pregnant woman was removed by order of justices from H. to M., and received by the parish officers there. On the following day she clandestinely and of her own accord returned to H., where she was delivered before the time for appealing against the order had expired. The bastard was settled where born: *Rex v. Halifax*, 2 B. & Ad. 211.

If an unmarried pregnant woman be fraudulently removed by parish officers for the purpose of preventing the child to be born becoming chargeable to their parish, the child is settled in the parish from which the mother is so removed; but not if the mother be so fraudulently removed by a parishioner liable to pay rates not being a parish officer: *Rex v. Mattersey*, 4 B. & Ad. 211.

Neither husband nor wife can be examined for the purpose of proving non-access during marriage, nor can either be examined as to any collateral fact for the purpose of proving non-access, as that the husband at a particular time lived at a distance from his wife and cohabited with another woman: *Rex v. Sourton*, 5 A. & E. 180.

A wife was deserted by her husband; at the end of three or four years she married another man and had two children by him; eleven years after the second marriage she again cohabited with her husband. It did not appear where the husband was between the time of his deserting and again cohabiting with his wife. Held, that the sessions were not warranted on this evidence in finding non-access of the husband at the time when the children were begotten, and therefore the wife's evidence could not be received to prove them illegitimate: *Reg. v. Mansfield*, 1 Q. B. 444; 10 L. J. M. C. 97.

A bastard was born in the workhouse of the parish of H., where her mother was then maintained as a pauper belonging to H. That parish consisted of several townships maintaining their poor jointly; the workhouse was in one of them. After the pauper's birth separate parish officers under 14 Car. 2, c. 12, s. 21, were appointed for each of the townships and thenceforward they maintained their poor separately. Held, that both under and independently of 54 Geo. 3, c. 17, s. 3, the pauper at her birth was settled in the parish of H. but not in any particular township; and she had not after the separation of the townships a settlement in the township in which the workhouse was: *Reg. v. Tipton*, 3 Q. B. 215; 11 L. J. M. C. 89.

An illegitimate child having a settlement of its own cannot be removed with the mother and her legitimate children to her maiden settlement: *Reg. v. Birmingham*, 15 L. J. M. C. 65; 8 Q. B. 410.

SETTLEMENT BY PARENTAGE—SETTLEMENT OF FATHER.

Foreign parents who have gained no settlement in England cannot communicate a settlement to their children: *Cowred's case*, Comb. 287. *Decisions on sect. 1.*

The father's settlement is conferred on a legitimate child although such child be an idiot: *Hard's case*, 2 Salk. 427; Comb. 380.

The father's settlement communicated to his children is not changed by the marriage of his widow: *Rex v. Saxmundham*, Bott.; S. C. Fort. 307.

If H. being settled in A., and having several children there, remove to and gain a settlement in B., his children under the age of seven years are settled in B.: *Rex v. Cumner*, 2 Salk. 528.

The father's settlement is the settlement of his legitimate children in whatever place they may be born: *Coxwell v. Shillingford*, Fort. 313; S. P. *Reg. v. St. Giles*, Foley, 269.

A legitimate child, though born after the father's death, inherits his settlement: *Rex v. Clifton*, 19 Vin. Abr. 382.

The settlement of the father is the settlement of his children having no other settlement, although the father resided elsewhere at the time of, and even after their birth; and the children may be removed to such place of settlement after the father's death, although they were never there whilst he lived: *St. Giles, Reading, v. Eversley Blackwater*, Str. 580; 2 Sess. Ca. 116; 8 Mod. 169.

The wife and children of a man may be removed to the place of his settlement though he is alive and does not reside there: *Rex v. Ironacton*, Burr. S. C. 153.

A legitimate child has a right to its parents' settlement; the father's takes effect first; but if the father has no settlement, then the children shall go to the mother's; for in such case the mother's maiden settlement is not extinguished: *Rex v. St. Botolph, Bishopsgate*, Burr. S. C. 367; S. P. *St. Giles v. St. Margaret*, Foley, 287; *Rex v. Westerham*, Str. 683.

A child born a bastard whose parents afterwards intermarry, and whose father afterwards procured a certificate for himself, his wife, and his child gained his father's settlement, and was not settled where born: *Rex v. Tostock*, Burr. S. C. 737.

Nurse children may be removed to their father's settlement if the mother be dead: *Rex v. Bucklebury*, 1 T. R. 164.

Proof of the father's settlement is sufficient to establish the settlement of his children in the same parish if nothing appear to contradict it: *Rex v. Stone*, 6 T. R. 56.

The settlement of a person attainted acquired before the attainder, is communicated to his children born afterwards: *Rex v. St. Mary, Cardigan*, 6 T. R. 116.

SETTLEMENT BY PARENTAGE—SETTLEMENT OF MOTHER.

If a mother acquire a new settlement, not in her own right, but by marriage with a second husband, her children by the first husband retain their original settlement by birth or parentage, and cannot be removed with the mother except for nurture, while under seven years of age: *Wangford v. Brandon*, Carth. 449.

A child may gain a new settlement with the mother after the father's death: *Paulsbury v. Woodon*, Str. 746.

Where a wife gains a settlement in her own right, the children shall partake of it notwithstanding the previous settlement by parentage: *Rex v. Woodend, Ld. Raym.* 1475; S. C. 2 Str. 746; 2 Sess. Ca. 124; Fort. 328.

SETTLEMENT BY PARENTAGE—SETTLEMENT OF MOTHER—*cont.*

*Decisions on
sect. 1.*

Children whose father is dead, and from whom they derived a settlement, follow the settlement of their mother if she gain a fresh settlement after the death of her husband: *St. George, Southwark v. St. Katherine, near the Tower*; Foley, 254; *Ld. Raym.* 1474.

The child of a woman whose husband has no settlement is not settled where born, but shall have the mother's settlement: *Tynton v. Kings Norton, Bott.*; *S. P. St. Giles v. St. Margaret's*, Foley, 287.

A mother having previous to her marriage acquired a settlement in her own right by servitude, after her first husband's death, acquired a new settlement by marriage; the children of her first husband, if the place of his settlement be unknown, shall go to the parish where the mother gained a settlement in her own right, and not to the place of her second husband's settlement: *Rex v. St. Giles-in-the-Fields*, Burr. S. C. 2; 1 Sess. Ca. 171; *Bott.*

A mother, during the life of her husband, cannot gain a different settlement for her children from that which they derive from their father by parentage: *Berkhampstead v. St. Mary, Northchurch*, *Bott.*

A child of ten years who possesses a derivative settlement from his father may, after the death of his father, acquire a new settlement from his mother, by going with her into another parish, and living with her as a part of her family, upon her own estate; and in an order for the removal of such child it is not necessary to state that he had not gained a settlement for himself: *Rex v. Barton Turfe*, Burr. S. C. 49.

If a mother, after the death of her husband, gain a settlement by estate, her children shall partake of it: *Rex v. Oulton*, Burr. S. C. 64.

The mother's settlement is the settlement of her children and grandchildren, if their respective fathers had no settlement; for there is no difference between acquired and derivative settlements: *Rex v. St. Matthew, Bethnal Green*, Burr. S. C. 482.

A widow by residence, during her *quarantine*, gains a settlement for herself and children who are not emancipated, although they do not reside with her during the *quarantine*, by reason of an occasional separation: *Rex v. Long Wittenham*, *Bott.*; *S. C. Cald.* 474.

SETTLEMENT—EMANCIPATION.

Children until seven years of age are accounted "nurse children," and after that age they may become emancipated from their parents, and gain settlements for themselves: *Dumbleton v. Beckford*, *Salk.* 470; *Foley*, 271.

A child who on the removal of its father into another parish is left behind, and continues to work for himself, is divided from his father's family, and cannot derive a new settlement from him: *Eastwoodhey v. Westwoodhey*, 1 Str. 438; 2 Sess. Ca. 129.

A son, who when 19 years of age, leaves his father's family and goes into another parish where he marries and has children, is emancipated, and cannot derive a subsequent settlement from parentage: *St. Michael's, Norwich v. St. Matthew's, Ipswich*, 2 Str. 831; Burr. 108.

If a certifying parish bound the son of a certificated man apprentice in a third parish, the son was thereby emancipated from his father's family: *Rex v. Silton*, 1 Wils. 184; Burr. S. C. 269.

If a son, after he becomes of full age, marry and live separate with his wife and children from his father, though in the same parish, yet he is so far emancipated, that the father cannot communicate to him a new settlement subsequently acquired: *Bugden v. Amphill*, Burr. S. C. 270; 1 Wils. 183.

If a son enlists as a soldier he thereby emancipates himself, and there-

SETTLEMENT—EMANCIPATION—*continued.*

fore cannot change his derivative settlement by parentage for a new settle- *Decisions on*
ment subsequently acquired by his father: *Rex v. Walpole, St. Peter's, in sect. 1.*
Norfolk, Burr. S. C. 638; 1 W. BL. 699.

A son, who at fifteen binds himself apprentice, serves out part of his time and works about the country in the way of his business, but who goes to his father's house whenever he pleases, keeps his holiday clothes there, and considers it as his home, is not emancipated from his father's family: *Rex v. Halifax*, Burr. 806.

Nine or ten years' residence of a child by direction of the father in a friend's house for the purpose of his support, is not, if he occasionally visit his father's house as his home, such an absence as will upon the principle of abandonment be considered an emancipation, and thereby prevent his following his father's settlement: *Rex v. Tottington, Lower End*, Cald. 284.

The age of nurture has no relation to the doctrine of emancipation: *Id.*

A boy hired out by his father several years successively, and never living with him, the father receiving the wages, is not emancipated, but continues to follow the father's settlement acquired after the hiring out: *Rex v. Stretton*, Bott.; Cald. 487.

A child separated from her father by being maintained several years in the workhouse is not emancipated: *Rex v. Broadhembury*, Bott. Cald. 498.

A son, who leaves his father's family when only five years old, and lives with different relations till ten, is not emancipated, but shall follow the settlement of his father if he has not gained any settlement in his own right: *Rex v. Offchurch*, 3 T. R. 114.

A son, who when 16 is bound apprentice by a void indenture for four years, which he serves, and never afterwards returns to his family, is not emancipated, but follows the father to a new settlement gained while he was serving under the indenture: *Rex v. Edgworth*, 3 T. R. 353.

A child is not emancipated so as to lose the benefit of any settlement which his father may gain until he comes of age or marries, or till he has gained a settlement in his own right, or till he has contracted a relation inconsistent with the idea of his being part of his father's family: *Rex v. Wilton-cum-Twambrookes*, 3 T. R. 355.

The son of a certificated person, who left his father's family at 19, and served a year under an hiring in an extra-parochial place, and at the end of the year returned unmarried, and under age (not having gained a settlement in his own right), to the parish where his father lived under the certificate, and there entered into service, was not emancipated: *Rex v. Collingbourn Ducis*, 4 T. R. 199.

A son who at the age of 19 enlists in the army, goes abroad as a soldier, marries and absents himself from his father's family for several years, is thereby emancipated, and though he never acquires a settlement in his own right, cannot partake of one gained by his father subsequent to his enlisting and leaving his family: *Rex v. Stanwick*, 5 T. R. 670.

An adult who leaves his father's house and goes into service becomes thereby emancipated, and is not entitled to a settlement gained afterwards by his father: *Rex v. Roach*, 6 T. R. 247.

If the son of a certificated person served a year under a yearly contract in the parish granting the certificate, and then returned under age to the father's house for a short time, and then served another year with another master under a yearly hiring in the certificated parish, he did not gain a settlement in the latter parish: *Rex v. Ingworth*, 8 T. R. 339.

A drummer under age entered into the same militia in which his father was sergeant, and lived with his father, the latter receiving the son's pay: held, that a settlement gained by the father during such time was communicated to the son: *Rex v. Woburn*, 8 T. R. 270.

SETTLEMENT—EMANCIPATION—*continued*.

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sect. 1.*

A son, of full age and married, continuing to live with his father does not follow a settlement subsequently acquired by the father in another parish, to which the son also accompanied him, as part in fact of his household: *Rex v. Everton*, 1 East, 526.

A person could not gain a settlement by hiring and service with the son of a certificated man continuing to reside in the certificated parish with his mother after the father's death as part of her family, though the son were of age and carried on business for himself; such circumstances not amounting to emancipation: *Rex v. Sowerby*, 2 East, 276.

A widower, having a daughter, placed her at 11 years of age with an uncle, by whom she was wholly maintained after that time, and with whom she continued to reside after she came of age, doing service for him, but without contract of hiring to give her a settlement of her own, the father having in the meanwhile gone out to service. On the daughter coming of age she was held to be emancipated, though her father conceived himself bound as such to receive and support her if she left her uncle's; and consequently the father was capable of gaining a settlement by hiring and service for a year as "an unmarried, not having a child" who would follow his settlement within 3 Wm. & M. c. 11, s. 7: *Rex v. Cowhoneyborne*, 10 East, 88.

A son, apprenticed by his father to a master living under a certificate in another parish, and not thereby acquiring any settlement of his own, but receiving clothes from his father, and visiting him from time to time, and returning home to him after the expiration of his apprenticeship before he was of age, though he went out to service again in two days, after receiving more clothes, is not emancipated from his father's family, and therefore followed a settlement gained by his father while he was serving as an apprentice: *Rex v. Hardwicke*, 11 East, 578.

A pauper at the time of hiring himself had a daughter of the age of 18, who from the age of 4 had lived with her grandfather, and had been maintained by him till his death, and afterwards by her grandmother, which continued until she attained 21, the grandfather having by his will directed the grandmother to educate and maintain her out of a fund given to the grandmother for life, and after her decease to the daughter: held, that the daughter was not emancipated, and consequently the pauper was not within 3 & 4 Wm. & M. a person not having a child at the time of the hiring: *Rex v. Uckfield*, 5 M. & S. 214.

Where a person was bound apprentice to a certificated man, and during his apprenticeship, he being of the age of 18, his father gained a new settlement, and the pauper did not return to his father's house till after he was 21: held, that he was not emancipated, and that his settlement followed the new settlement of his father: *Rex v. Huggate*, 2 B. & A. 582.

Where a pauper, being settled by parentage in A., at the age of 13 hired and served for a year in A., and afterwards when he was 16 returned and lived with his father's family until he became of age: held, that having acquired a settlement of his own in A. he did not follow the settlement of his father subsequently gained in another parish while the pauper continued to reside with him: *Rex v. Bleasby*, 3 B. & Ald. 377.

A minor residing with his father was drawn as a militia-man, and served for five years; during his service he several times when on furlough, and finally after his discharge from the militia, returned to his father's house: held, that by his so remaining separated from his father's family after he had attained 21 years of age he was emancipated, although the original separation was not voluntary on his part: *Rex v. Hardwicke*, 5 B. & A. 176.

During the minority of a child there can be no emancipation, unless the child marries and so becomes the head of a family, or contract some other

SETTLEMENT—EMANCIPATION—*continued.*

relation so as wholly and permanently to exclude the parental control. *Decisions on Semble*, the acquiring a settlement of his own does not properly constitute *sect. 1.* an emancipation: *Rex v. Wilmington*, 5 B. & Ald. 525.

A minor enlisted into the marines, was discharged from the service, and returned to his father's family before he attained full age; he was not emancipated: *Rex v. Rotherfield Greys*, 1 B. & C. 345.

A pauper, 20 years of age, whose father was settled in parish A., contracted to serve the captain of a ship two summers and a winter; he continued in the service until he attained 21 years of age, but before that time his father acquired a settlement in another parish: held, that the pauper was not emancipated before he attained the age of 21, and consequently that he followed his father's settlement: *Rex v. Lytchett Matravets*, 7 B. & C. 226.

A pauper while under age quitted his parent and went to sea, serving sometimes in a King's ship, at other times in trading vessels, and remained in such service, and so separated from his father's family when he attained the age of 21 years: held, that he was then emancipated, and that his settlement did not afterwards shift with that of his father's: *Rex v. Lawford*, 8 B. & C. 271.

An idiot, though separated from its parent, after the age of 21, is not emancipated: *Rex v. Much Cowarne*, 2 B. & Ad. 861.

For the purpose of a settlement a son is not emancipated before the age of 21, unless he marries and so becomes the head of a family, or contracts some other relation, so as wholly and permanently to exclude parental control: *Reg v. Scammonden*, 15 L. J. M. C. 30; 8 Q. B. 349.

Service as a police constable does not operate to cause the emancipation of an infant; even though the person while he is in the force lives at a distance from his parent: *Reg. v. Selborne*, 2 E. & E. 275; 1 L. T. (N. S.) 8; 5 Jur. (N. S.) 1168; 29 L. J. (N. S.) M. C. 11; S. C. nom. *Selborne v. Bethnal Green*, 23 J. P. 743.

SETTLEMENT—MARRIAGE AND EVIDENCE.

A marriage, though procured by bribery, will gain a settlement to the woman though an idiot: *Rex v. Watson and Perrot*, 1 Wils. 41.

The fact of marriage cannot be inquired into after an order of removal stating the parties to be husband and wife, if such order be not appealed against at the next sessions: *Rex v. Berkeswell, Bott.*; Burr. S. C. 168.

A marriage contracted previous to the Marriage Act, if the ceremony was not performed by a priest in holy orders, and *in facie ecclesiæ*, was null and void; and no settlement could be gained by the woman under it: *Rex v. Luffington*, Burr. S. C. 232; 1 Wils. 74.

If a man and woman be certificated as husband and wife, the legality of their marriage cannot be controverted by the certifying parish: *Rex v. Headeorn, Bott.*; Burr. S. C. 253; Str. 1233.

The marriage of an infant without consent of parents is void by the Marriage Act, and therefore a woman and her children could not gain the settlement of the man with whom she was so connected: *Rex v. Preston*, Burr. S. C. 486.

The validity of a marriage by banns is not affected as to the purposes of settlement by the entry in the parish register not being signed by the minister or some other person in his presence as directed by 26 Geo. 2, c. 33, s. 14: *Rex v. Devereux*, Burr. S. C. 506; 1 W. Bl. 367.

Cohabitation for 30 years as man and wife is sufficient proof of marriage for the justices to found an order of removal upon: *Rex v. Starkland*, Burr. S. C. 508.

The fact of marriage can only be controverted on appeal to the sessions

SETTLEMENT—MARRIAGE AND EVIDENCE—*continued.*

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against an order removing a man and his wife: *Rex v. Enborn*, Burr. S. C. 551.

A marriage, though procured by the overseer of a parish for the purpose of changing the settlement of one of the parties is good: *Rex v. Tarrant*, Bott.; Salk, 174.

The proof of a marriage in fact is not necessary for the purpose of gaining a settlement; but proof by cohabitation, reputation and other circumstances from which a marriage may be inferred is sufficient: *Morris v. Miller*, 4 Burr. 2059; 1 W. Bl. 632.

A marriage in Scotland between English subjects under age is good: *Crompton v. Bearcroft*, Buller, N. P. 113.

On the removal of a woman to her supposed husband's settlement, the illegality of the marriage may be proved by the man himself or by his real wife: *Henley v. Chesham*, Bott.

A female bastard under age married by licence with the consent of her putative father, gains a settlement by virtue of such marriage: *Rex v. Edmonton*, Bott.; Cald. 435.

A marriage, celebrated by licence, between two infants, but without the consent of either parents or guardians is void by 26 Geo. 2, c. 33, although both the parties are illegitimate, and no settlement can be gained under it: *Rex v. Hodnet*, 1 T. R. 96.

Evidence that British subjects in a foreign country, being desirous of intermarrying, went to a chapel for that purpose, where a service in the language of the country was read by a person habited like a priest, and interpreted into English by the officiating clerk, which service the parties understood to be the marriage service of the Church of England, and they received a certificate of marriage, which was afterwards lost, is sufficient whereon to ground a presumption (nothing appearing to the contrary) that the marriage was duly celebrated according to the law of the country, particularly after 11 years' cohabitation as man and wife till the period of the husband's death: *Rex v. Brampton*, 10 East, 282.

Marriage by contract without religious celebration, according to the law of Scotland, is valid, though one of the parties to the marriage be English and the other Scotch: *Dalrymple v. Dalrymple*, 2 Haggard, Con. Ca. 54.

A person whose baptismal and surname was A. L. was married by banns in the name of G. S., having been known in the parish where he resided, and was married by that name only; the marriage was held to be valid, and therefore the wife and children took the husband's settlement: *Rex v. Biltinghurst*, 3 M. & S. 250.

A marriage by licence not in the man's real name, but in the name which he had assumed because he had deserted, he being known by that name only in the place where he lodged and was married, and where he had resided 16 weeks, was held a valid marriage: *Rex v. Burton-upon-Trent*, 3 M. & S. 537.

The law always presumes against the commission of crime; and therefore where a woman twelve months after her husband was last heard of married a second husband, and had children by him: held that the sessions did right in presuming *primâ facie* that the first husband was dead at the time of the second marriage, and that it was incumbent on the party objecting to give proof that the first husband was then alive: *Rex v. Twynning*, 2 B. & Ald. 886.

Upon a question as to the settlement of E., the wife of C., the respondents proved by the testimony of C. his marriage with E. in 1829. The appellants in order to prove that the marriage was void on the ground that he had been married in 1826 to A. B., called the latter, who stated that she in 1826 went with C. before a reputed clergyman of the Established Church in Ireland, who in his private house there read to them the marriage ceremony. A document was also produced, purporting to be W.'s letter of orders, signed

SETTLEMENT—MARRIAGE AND EVIDENCE—*continued.*

in 1799 by the then Archbishop of Tuam, which was proved to have been among W.'s papers at the time of his death in 1829. Held, 1, M. B. was a competent witness to prove the first marriage—2, that the certificate of ordination was properly received in evidence: *Rex v. Bathwick*, 2 B. & Ad. 693.

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sect. 1.*

Proof that two persons were married in a parish, and that their children were baptised in the same parish, is not evidence from which the justices are bound to infer that the children were born there: *Rex v. Lubbenham*, 3 Nev. & M. 37; 5 B. & Ad. 968.

A man who has been in fact married may be a witness to prove such marriage illegal: *Standen v. Standen*, Platt. N. P. C. 45.

Respondents having proved the settlement of a female pauper by marriage, it was shown in answer that the husband was previously married, that a letter had been written by his first wife, bearing date twenty-five days before the second marriage, from Van Diemen's Land; the sessions quashed the order, and it was held that upon the evidence given the sessions might presume that the first wife was living at the time of the second marriage, and found against the settlement: *Rex v. Harborne*, 2 A. & E. 540; 4 L. J. M. C. 49; 4 N. & M. 341.

A marriage contracted with the daughter of the half-sister of a deceased wife is void, and no settlement can be derived through such a marriage. It makes no difference whether the sister of the deceased wife be or be not legitimate: *Reg. v. Brighton*, 30 L. J. M. C. 197; 5 L. T. (N.S.) 56; 1 B. & S. 447.

SETTLEMENT—WIFE'S MARITAL SETTLEMENT.

The husband's settlement if known is by the marriage communicated to the wife: *Appotens v. Dunswell*, Bott; S. C. Sett. and Rem. 66; 1 Sess. Ca. 85.

A widow shall be sent to her husband's last settlement, though she never was at the place in his life time, if she has not gained a new settlement herself: *St. Giles, Reading v. Eversley*, 1 Str. 580; 2 Sess. Ca. 116; 8 Mod. 169; 2 Ld. Raym. 1332.

A wife cannot gain a settlement separate and distinct from her husband during his life time: *Rex v. Aythorp Roothing*, Burr. S. C. 412.

Where the marriage of a female pauper was brought about by the fraud of parish officers, that did not prevent her from acquiring a settlement by marriage in her husband's parish: *Rex v. Birmingham*, 8 B. & C. 29.

SETTLEMENT—WIFE'S SETTLEMENT IN HER OWN RIGHT.

A married woman, yet if her husband have no settlement, cannot gain any other settlement than she had before marriage, and she may be removed thither: *Dunsford v. Wilborough Green*, Foley, 249.

If a woman marries an Irishman who has no settlement, the settlement of her daughter shall be in the parish in which the mother's settlement was before her marriage: *St. Giles v. St. Margaret in Westminster*, Foley, 251.

If a wife's husband's settlement cannot be found, her maiden settlement remains to her: *Appotens v. Dunswell*, 1 Sess. Ca. 80.

A woman who marries a man without a settlement does not thereby lose her own: *St. Giles v. St. Margaret's, Westminster*, 1 Sess. Ca. 104.

The settlement of a widow, which she has gained in her own right, cannot be changed by evidence that she was afterwards married to a man who in his lifetime told her that he was born in Yorkshire; for such a declaration is not sufficient evidence of his settlement: *Rex v. Hensingham*, Cald. 206.

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SETTLEMENT—WIFE'S SETTLEMENT IN HER OWN RIGHT—*continued.*

On removal of a widow, it is enough in the first instance to prove her maiden settlement: *Rex v. Woodford*, Cald. 236.

The wife's settlement returns whenever it appears that the husband's settlement cannot be discovered: *Rex v. Westerham*, Bott.; *Foley*, 288.

If the mother being a widow gains herself a new settlement, her children by her deceased husband follow that settlement: *Woodend v. Paulspury*, 2 Ld. Raym. 1473.

A woman's settlement before marriage remains if her husband has no settlement: *Westham v. Chiddingstone*, Str. 683.

The maiden settlement of a married woman is not suspended during coverture, but she and her child may be removed thither if her husband have no settlement of his own: *St. Botolph's without Bishopsgate v. St. John's, Wapping*, Burr. S. C. 367; *Sayer*, 198; see also *Rex v. Eastbourne*, 4 East, 103.

As against a birth settlement, proof of the mother's maiden settlement is sufficient to invalidate an order of removal: *Rex v. St. Mary, Leicester*, 3 A. & E. 644.

On proof of the mother's maiden settlement, the justices may remove the pauper thither, and on appeal the respondents may rely *prima facie* on that settlement, without proving any inquiry made as to the settlement of the father: *Reg. v. Yelvertoft*, 6 Q. B. 801; 14 L. J. M. C. 78; 9 J. P. 199.

SETTLEMENT BY RENTING A TENEMENT—KIND OF TENEMENT.

14 Car. 2, c. 12, s. 1, means renting an estate at 10*l.* a year, and not purchasing a freehold to that value: *Rex v. Stanmore*, Skin. 268.

A water mill is a tenement within 14 Car. 2, c. 12: *Evelyn v. Rentcomb*, Salk. 536; see also *Cranley v. St. Mary, Guilford*, 1 Str. 502.

A coney-warren is a tenement within 14 Car. 2, c. 12, s. 1: *Kinver v. Stone*, Str. 678; S. C. Salk. 63; 2 Sess. Ca. 114.

Renting a piece of pasture ground of 10*l.* per annum gives a settlement; but not renting the pasture only: *Rex v. Minchinhampton*, Str. 874.

A prisoner in the fleet who rented a house of 10*l.* a year within the rules, thereby gained a settlement: *St. Margaret's, Westminster v. St. Martin's, Ludgate*, Bott.; S. C. Str. 924.

A windmill, though no dwelling-place, is a tenement within 14 Car. 2, c. 12, and will gain a tenant a settlement if he reside in the parish, although he has given security for the rent: *Rex v. Butley*, Burr.; S. C. 107; 2 Str. 1077; 1 Sess. Ca. 402.

No settlement can be gained by renting a tenement of the yearly rent of 10*l.* if the value of it be less: *Rex v. Southwold*, Burr., S. C. 143; Str. 1127.

A mere personal contract for the use and feeding of cows, is not a tenement within 14 Car. 2, c. 12, and a settlement cannot be gained thereby: *Rex v. Lockerley*, Burr. S. C. 315.

Land taken for a particular purpose, as that of growing potatoes for a particular portion of the year, is a tenement within 14 Car. 2, c. 12: *Rex v. Shenton*, Burr. S. C. 474.

A first and second floor unfurnished at the rent of £10 a year, is a tenement; although the apartments are not distinct from the house: *Rex v. St. George's, Hanover Square*, Bott.; Burr. S. C. 692.

A shop occupied separately from the house to which it belongs is a tenement: *Rex v. St. Giles-in-the-Fields*, Burr. S. C. 798.

A furnished room with fire found, rented by the week for a particular

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purpose, and the landlord to have the use of it at other times, is a tenement within the statute: *Rex v. Whitechapel*, Bott.

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A "land sale colliery" is a tenement by the renting of which a person may gain a settlement: *Rex v. North Bedburn*, Bott.; Cald. 452.

A lease was granted to A. for 99 years, he devised it to B., his son, who entered and enjoyed it above 40 days; it was held that B. thereby gained a settlement; for it comes within the same reason as the cases of freehold and copyhold estates, and B. having a property could not be removed: *Rex v. Sandwich*, Cunningham, 76.

A cattle gate is a tenement within 14 Car. 2, c. 12, for the purpose of gaining a settlement: *Rex v. Whitley*, 1 T. R. 137.

A lease of the fishery of a pond, with the spear-sedge, flags, and rushes, in and about the same, is such a constructive demise of the soil that it is a sufficient tenement within the statute: *Rex v. Old Alresford*, 1 T. R. 358.

Where a pauper was permitted by several persons having a right of common to occupy a tenement of 10*l.* a year as a reward for his services as herd, he gained a settlement: *Rex v. Melkridge*, 1 T. R. 598.

Taking the hay, grass, and aftermath of a meadow for ten months at the annual rent of 10*l.* is a taking of a tenement within 14 Car. 2, c. 12, so as to confer a settlement: *Rex v. Stoke*, 2 T. R. 451.

Renting a dairy will gain a settlement; so will a rabbit warren, though he who takes it have no interest in the soil, except that of entering the warren to kill rabbits: *Rex v. Piddletrenthide*, 3 T. R. 772.

Renting the "fogs" and after-grass of meadow land to the yearly value of 10*l.* is a tenement: *Rex v. Bampton*, 4 T. R. 348.

Renting twenty cows at 3*l.* 10*s.* a year, each to be fed in certain grounds belonging to the owner exclusively of any other cattle, is a tenement: *Rex v. Tolpudde*, 4 T. R. 671.

Renting a right of common in gross of the value of 10*l.* is a tenement within 14 Car. 2, c. 12: *Rex v. Dersingham*, 7 T. R. 671.

The renting by a needle-maker of two out of six pointing places in a mill, any two of which he was at liberty to use from time to time, at 16*l.* a year rent, and engaging also to do all his landlord's work in preference to that of others, for which he was to be paid by the piece, is not the taking of a tenement so as to gain a settlement: *Rex v. Dodderhill*, 8 T. R. 449.

The renting by a needle-maker of certain runners in another's mill together with a packeting room, of all which he had the exclusive use, (a runner being a piece of machinery for scouring needles, screwed down to the floor of the mill) the whole being of the annual value of above 10*l.* including the separate value of the runners, is not the taking of a tenement whereby a settlement can be gained: *Rex v. Tardebigg*, 1 East, 528.

The occupation of a cottage of 10*l.* annual value for 40 days by the leave of the former tenant, was holden to give a settlement: *Rex v. Aldborough*, 1 East, 597.

A contract for a standing place in a mill for a carding machine which was fastened to the floor and roof, for the purpose of being worked by the steam engine of the mill, for which the contractor was to give 20*l.* a year with liberty to quit on three months' notice, is not a taking of a tenement, but a mere licence, and no settlement is derived under it: *Rex v. Mellor*, 2 East, 189.

Renting a dairy (including the cows and their pasture) at above 10*l.* a year in value, will not confer a settlement if the annual value of the lands on which the cows are depastured be under 10*l.*: *Rex v. Minworth*, 2 East, 198.

One who resided on a tenement of 5*l.* annual value in parish W. and at

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the same time rented the ley (*i. e.* pasturage) of two cows, from May Day to Michaelmas, in land in H., at 6*l.* 6*s.*, thereby gains a settlement in W., though he were not entitled to the exclusive pasturage of the land in H: *Rex v. Hollington*, 3 East, 113.

A foreigner may gain a settlement in England by occupying a tenement of 10*l.* a year for 40 days: *Rex v. Eastbourne*, 4 East, 103.

Where a corporation by a verbal agreement leased tolls of a market for above 10*l.* a year; it was held that the lessee could not thereby gain a settlement, as no interest could pass from a corporation but under their seal: *Rex v. Chipping Norton*, 5 East, 239.

One may gain a settlement by renting a tenement of above 10*l.* a year in the parish where he resided, though in a turnpike house as servant to the collector for whom he received the tolls: *Rex v. Denbigh*, 5 East, 333.

Renting the hire or privilege of milking two cows at so much per week, per cow, for 40 weeks, which cows were to be depastured by the owner on his farm in common with his other cattle, and were to be milked by the person renting, will confer a settlement on such person if the pasturage of the cows be worth 10*l.* a year: *Rex v. Stoke-upon-Trent*, 10 East, 496.

A person renting the tolls, and residing in a turnpike house, it was held could not gain a settlement: *Rex v. Elvet*, 11 East, 93.

Where a person applied to the owner of a farm for the milking of a cow, which it was agreed that he should have for the season at 9*l.*, and the particular cow was then pointed out, though nothing was said as to where or how the cow was to be fed, further than that he was then told that the owner's farming man would inform him in what pasture the cow would be first milked, of which he was afterwards informed, and so from time to time as the pasture was changed. This was held to be sufficient evidence of a contract for the taking of a pasture-fed cow, and by consequence of a tenement, so as to confer a settlement on the pauper who rented another tenement at the same time, of the annual value of together 10*l.*: *Rex v. Darley Abbey*, 14 East, 280.

The taking a tenement which by having been cropped with clover and grass, when let to the tenant was worth 10*l.* a year, but otherwise not, gave a settlement: *Rex v. Purley*, 16 East, 126.

Renting the tolls of a bridge, not appearing part of the turnpike road, vested by statute in a company of proprietors who are declared a corporation, will confer a settlement, although the tolls were made personal estate, and the renting is not stated to be by deed: *Rex v. Bubwith*, 1 M. & S. 514.

Renting a certain number of lugs of land at so much per lug, for the purpose of planting potatoes, where the pauper agreed to take the land ready ploughed and manured, was held to be a renting of land of a yearly value, as it was increased by being ploughed and manured by the landlord, although when the pauper took it the ploughing and manuring was begun, but not finished: *Rex v. West Cramore*, 2 M. & S. 132.

Where five persons, as members of a managing committee of a corporation who were proprietors of a bridge and the tolls thereof, demised the tolls and the toll house to the pauper for one year, reserving a rent to the corporation and a power of re-entry, but the demise was not under the corporate seal, but only under the seals of the five individual members, it was held that the pauper did not gain a settlement: *Rex v. North Duffield*, 3 M. & S. 247.

Where a person by order of a corporation made at a common hall, was allowed the liberty to take sand and gravel from the bed of a river, of which the corporation were entitled to the soil, for which he paid 10*l.* per annum; held that such person thereby acquired a settlement: *Rex v. All Saint's, Derby*, 5 M. & S. 91.

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Where a person resided for a year in a house in parish A., and during all that time had two subsisting parol contracts for two ponds, or the rushes and flags growing therein, which he was to have the exclusive right of cutting, these being together above the value of 10*l.* per annum, conferred a settlement: *Rex v. All Saints, Cambridge*, 1 B. & C. 23. *Decisions on sect. 1.*

The master of a charity school, who was removable from his office at pleasure, resided for seven years rent free in a house of the annual value of 10*l.* Part of the house he underlet to the parish at an annual rent: held that this was a coming to settle upon a tenement of the value of 10*l.* per annum within the meaning of 14 Car. 2, c. 12; and the pauper thereby gained a settlement: *Rex v. Lakenheath*, 1 B. & C. 531.

A person serving a farmer was to be at liberty to feed two cows on his master's farm during a year. They were so fed during the summer, and in the winter in the straw yard with hay grown upon his master's farm. It was found that the keep of the cows during the summer months required land worth 5*l.* 5*s.* annually, and to cut hay sufficient for the winter keep required land of the further annual value of 5*l.* 5*s.* It was held that the right to feed the cows upon the pasture during the summer was the only part of the contract which gave any interest in the land, and as that was less than 10*l.* per annum, a settlement was not confirmed: *Rex v. Sutton St. Edmunds*, 1 B. & C. 536.

By one entire contract a master agreed to give his servant 20*l.* a year, a cottage to live in, and the agistment of one cow, for his own services; and the sum of 28*l.* and the agistment of another cow in consideration of his lodging and maintaining in the cottage two of his master's labourers. The annual value of the land on which the cows were depastured exceeded 10*l.*, but the annual value of land sufficient to depasture one cow would have been less than 10*l.*: held that a settlement was confirmed by the right to agist two cows: *Rex v. Cherry Willingham*, 1 B. & C. 626.

A person was hired for a year as a shepherd, with house and garden rent free, seven shillings a week, and the going of thirty sheep with his master's flock, as wages. He served for two years at these wages in parish L., during all which time the sheep went on his master's farm in the same parish. The feed of the sheep was worth 16*l.* per annum: held that this did not confer a settlement, it not being any part of the bargain that the sheep should be pasture fed; *semble*, in order to gain a settlement by renting a tenement the pauper must reside upon some part of it: *Rex v. Bardwell*, 2 B. & C. 161.

A person was hired for a year, and had by agreement a house and garden, a rood of potatoe land, and the keep of a cow on his master's land. After he had served ten years, his cow failing in milk, he had in lieu of it two heifers kept for him through the kindness of his master, and not in consequence of any agreement. The potatoe land and the keep of the two heifers was of the annual value of 10*l.*, but the same land and the keep of one cow was of less value. It was holden that the pauper by having the potatoe land and the keep of the two heifers before 59 Geo. 3, c. 50, gave a settlement: *Rex v. Benneworth*, 2 B. & C. 775.

A butcher agreed to occupy a stall in a market at two shillings and sixpence per week. The stall was a permanent building with a door capable of being locked, and the key was in his possession, but he had a right of access to the stall on two days of the week only. On the other days the market was closed. He used the stalls on the market days for a period of nineteen weeks, and paid rent for that time: held, that he had occupied the stall for thirty-eight days only, and therefore gained no settlement; *semble*, this was a coming to settle within 14 Car. 2, c. 12: *Rex v. Caversham*, 4 B. & C. 683.

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If pauper under a certificate was hired in a parish, and was to have a cottage, and the going of a flock of sheep, worth 10*l.* a year, he acquired a settlement by hiring and service, for having come to the parish to settle on a tenement of 10*l.* per annum, he was irremovable as soon as he came into the parish, although he could not gain a settlement there until he had resided forty days: *Rex v. Nacton*, 3 B. & Ad. 543.

Circumstances under which a pauper was held to have gained a settlement under 14 Car. 2, c. 12, by renting a tenement of 10*l.* annual value, under a special agreement as a "pot-kiln" and burning "pots:" *Rex v. Iken*, 2 A. & E. 147; 4 L. J. M. C. 27; 4 N. & M. 117.

Circumstances under which a pauper did not acquire a settlement by residence on premises held for lives after the falling in of such lives: *Rex v. Axbridge*, 2 A. & E. 520; 4 L. J. M. C. 61.

Pauper's husband entered into an agreement not under seal, whereby a dairy of ten cows and ten calves was let to him for a year, together with certain land, a keep and pasture of other fields, and a right of cutting browse at the appointment of the lessor, for 75*l.* He entered into possession and occupied the premises for a year, and paid the 75*l.*: held, that the sessions might find what portion of the sum was paid in respect of the lands, and it being found that more than 10*l.* was so paid, that a settlement was gained: *Reg. v. Bishopton*, 7 L. J. M. C. 25; 1 P. & D. 598.

Where a person purchased a leasehold interest, subject to a rent of one hundred and fifty guineas a year (in 1826), and after ten months left the house, which was shut up, but the rent continued to be paid, and afterwards ceased to inhabit within ten miles of the parish: held, that he possessed no settlement by estate or by "coming to settle" within 14 Car. 2, c. 12: *Reg. v. St. Giles-in-the-Fields*, 11 L. J. M. C. 18; 1 G. & D. 557.

By 4 & 5 Will. 4, c. 76, s. 68, if one settled in a parish by possession of an estate ceases to inhabit within ten miles, his settlement is thereby lost; but the settlement communicated to his child by such possession is not affected by the statute: *Reg. v. Hendon*, 2 Q. B. 455; 12 L. J. M. C. 1.

A., in 1769, inclosed a piece of land from the waste, and built a cottage thereon, in which he resided sixty years. During the whole time a yearly rent of two shillings and sixpence was paid by A. to the lord of the manor for the cottage, and on a further enclosure of land for a garden the rent was increased to three shillings. A. gained no settlement thereby: *Reg. v. Cuddington*, 14 L. J. M. C. 182; 9 J. P. 713.

A., the pauper's father, hired from C. a cow, which was depastured on the lands of C., and in the winter season in the straw yard. A. put the cow where there was feed for her, but nothing was said either by the master or himself as to the manner or on what particular lands the cow was to be fed. It was held that there was no evidence from which a contract could be inferred that the cow was to be fed on the growing produce of the land, and no settlement was gained: *Reg. v. Mendham*, 16 L. J. M. C. 67; 9 Q. B. 971; 11 J. P. 184.

Illustration of a settlement acquired by purchase of an estate in land of the value of 30*l.* through the medium of a building society: *Reg. v. Carlton*, 14 Q. B. 110; 19 L. J. M. C. 100; 13 J. P. 604.

A person put into possession, and residing in one room of a hospital, founded for charitable purposes, and under the management of trustees, and only liable under the rules of the hospital to be deprived of its benefits for misconduct or absence, does not thereby acquire an estate conferring a settlement: *Reg. v. St. Mary, Castlegate*, 21 L. J. M. C. 166; 16 J. P. 87.

Where a man marries a woman who rents a house from week to week, and he resides more than forty days in the house, paying the rent, he

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acquires a settlement by estate in the parish where the house is situated; *Decisions on* marriage; and the residence for forty days during the continuance of the *sect. 1.* estate so acquired was sufficient, notwithstanding that the tenancy was not for forty days certain: *Thornton v. Heckmondwyke*, 24 J. P. n, 292, 694; *S. C. Reg. v. Thornton*, 2 L. T. (N. S.) 212; 29 L. J. M. C. 162; 6 Jur. (N. S.) 799; *Heckmondwicke*, app., *Thornton*, resp., 2 E. & E. 788.

SETTLEMENT BY RENTING A TENEMENT—SPECIES OF TENURE.

A house rented at 5*l.* a year of one landlord, and a piece of land of 6*l.* a year of another landlord is an entire tenement in the tenancy by which he may gain a settlement: *North Nibley v. Wootton-under-Edge*, Foley, 79; Sett. & Rem. 86; 1 Sess. Ca. 73.

An entire tenement of 10*l.* a year, though lying in different parishes, will gain the tenant a settlement in that parish in which the house stands: *South Sydenham v. Lamerton*, Sett. & Rem. 78; Str. 57; Foley, 81; 1 Sess. Ca. 115.

An entire tenement of a house and lands of the value of 12*l.* a year lying in different parishes will gain a settlement, although there is not so much of it in either parish as amounts to 10*l.* a year: *Elsted v. Hollebourne*, Str. 849; 2 Sess. Ca. 159.

A tenement rented at 3*l.* a year in the certificate parish, and 40*l.* in the adjoining parish, avoided the certificate: *Rex v. Stapleford*, 1 Sess. Ca. 414.

Without administration settlement by estate cannot be acquired: *Rex v. Chew Magna*, Cald. 365.

A house rented at thirty shillings a year in one parish, and lands taken at a different time in another parish of 12*l.* a year, gained the tenant a settlement in the parish in which he resided: *Rex v. Sandwich*, Burr. S. C. 44.

A farm of 52*l.* a year, rented, occupied, and managed jointly by two tenants, is a tenement of sufficient value to each of them to give a settlement: *Little Tew v. Duns Tew*, Burr. S. C. 398.

A house taken for a year at the rent of 3*l.* 10*s.* in one parish, and another house taken for a year at 9*l.* in another parish, gave a settlement in that parish where the tenant lived the last 40 days, although he had tendered the key of the house to the landlord, and he had refused to accept it: *St. Laurence v. St. Maurice*, Burr. S. C. 588.

A house of 6*l.* a year rented of one man, and a stable at 2*l.* 10*s.* a quarter of another, is an entire tenement, and gave a settlement, although the tenant was not rated for the stable: *Rex v. St. Margaret, Fish Street*, Burr. S. C. 677.

A house with three acres and two roods of land at 9*l.* a year in one parish, and a cottage in another parish of 30*s.* a year, held in right of the pauper's wife, gained a settlement in the parish where he resided the last 40 days: *Rex v. Donington*, Burr. S. C. 744.

A house and land, the one of 3*l.* a year, the other of 8*l.* a year in the same parish, taken at different times, and of different landlords, form an entire tenement, and gained a settlement to the person so taking it, although he afterwards occupied the same jointly with another: *Awre v. Newnham*, Burr. S. C. 756.

A man who being insolvent, conveys his estate to trustees for the payment of his debts, but afterwards and before the trusts are performed gets fraudulently into possession of the estate, did not gain a settlement by residing thereon for 40 days: *Rex v. St. Michael, in Bath*, Doug. 630.

Two farms in different parishes, held of different landlords, the one at 8*l.*

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a year, the other at 2*l.* 10*s.* a year, is a tenant of 10*l.* a year, although the farm of 2*l.* 10*s.* a year was given rent free, and out of charity: *Bedworth v. Fillongley*, 1 T. R. 458.

A. occupied a tenement of 10*l.* a year, and died leaving three children, to two of whom he bequeathed 5*s.* each, and to the third, whom he made executrix, the residue of his property. The pauper, who had before married the executrix, resided on the tenement above 40 days, and paid rent for it, he gained a settlement thereby, though his wife never proved the will: *Rex v. Netherseal*, 4 T. R. 258.

The joint occupation of a farm of 120*l.* a year, although one of the partners only is the tenant to the landlord, is a tenement of sufficient value to each to give a settlement: *Rex v. Seamer*, 6 T. R. 554.

A cottage of the value of 30*s.* a year which a pauper resided in, under pretence of purchasing, and land in another parish of 10*l.* a year, which he entered on at his father's death, gave a settlement in the parish where the cottage was situated: *Rex v. Culmstock*, 6 T. R. 730.

The occupation of a cottage of the requisite value for 40 days, by leave of the former tenant, and under agreement to pay the same rent, but without any authority from the landlord, was holden to give a settlement: *Rex v. Aldborough*, 1 East, 597.

A foreigner may gain a settlement by occupying a tenement of 10*l.* a year for 40 days: *Rex v. Eastbourne*, 4 East, 103.

Pauper agreed to commence tenant of premises of the value of 10*l.* per annum, on 5th January, and in the June preceding, by permission of the then tenant, put some of his goods on the premises, and worked there; the tenant also giving up the key. This being no occupation of the premises in the relation of tenant, the pauper was removable on the 28th June: *Rex v. St. Michael's, in Coventry*, 16 East, 567.

Where the pauper having a freehold estate in A., which he had let for 50*s.* per annum, rented a tenement in B., of the value of 8*l.* 8*s.* per annum, and resided there 40 days; he did not gain a settlement in B., as he could not be considered as the occupier of the freehold estate: *Rex v. South Benfleet*, 1 M. & S. 154.

Where a waiter at an hotel had the tap and the use of cellars for holding liquors, for an annal payment of 60*l.*, this was not such an occupation as would confer a settlement: *Rex v. Seacroft*, 2 M. & S. 472.

Renting the feeding of cows which was above the yearly value of 10*l.*, conferred a settlement: *Rex v. Minster*, 3 M. & S. 276.

One who rented a tenement of 4*l.* a year, and bought by auction four lots of oats growing in a field for £12 14*s.*, did not thereby acquire a settlement: *Rex v. Bowness*, 4 M. & S. 210.

A woman deserted by her husband rented premises, where afterwards her husband lived concealed for seven weeks; the husband did not thereby acquire a settlement: *Rex v. Ashton-under-Lyne*, 4 M. & S. 357.

A man who hired himself as a farm labourer, at wages and a house and garden and other things, was held not to acquire a settlement thereby: *Rex v. Kelstern*, 5 M. & S. 136.

A soldier, while his regiment was in barracks, took a house in B. for his family at 10*l.* a year, and resided there for 40 days; this was such a coming to settle as gained a settlement: *Rex v. Brighthelmstone*, 1 B. & Ald. 270.

Where the occupation of a house is not as tenant but as servant, no settlement is acquired: *Rex v. Cheshunt*, 1 B. & Ald. 473.

A pauper by occupying a freehold estate of his own, and also other lands as tenant, the whole being of the aggregate value of 10*l.*, did not thereby gain a settlement; it being necessary under 14 Car. 2, c. 12, that he should come to settle on all the property in the character of tenant: *Rex v. St. John, in Glastonbury*, 1 B. & Ald. 481.

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The 9 & 10 Will. 3, c. 11, and 14 Car. 2, c. 12, s. 1, are *in pari materia*, *Decisions on sect. 1.*
and must receive a similar construction; therefore, where a pauper in addition to house and lands, had agisted three cows in the fields of his landlord for two or three months, but no positive contract for the agistment was proved, it was held, that the sessions might properly infer that this was "taking a lease of a tenement" within 9 & 10 Will. 3, c. 11, so as to discharge a certificate, though the value of the agistment was not sufficient if added to the value of the lease and land, to make up the value of 10*l.*: *Rex v. Croft*, 3 B. Ald. 171.

Pauper who rented a farm in C. assigned it to P. upon trust, to cultivate it and pay pauper's debts. The lease expired in 1817; no settlement of accounts took place, but P., without the authority of the pauper, then hired a house in H., at the yearly rent of £18, to which the pauper removed and there resided for more than two years. He never paid any rent or taxes, but P. was rated and paid the taxes and the rent. The pauper gained a settlement in H., by occupation of the house: *Rex v. Chediston*, 4 B. & C. 230.

Parol evidence of the fact of tenancy is admissible to prove a settlement, although the tenant hold under a written agreement: *Rex v. Holy Trinity, Kingston-upon-Hull*, 7 B. & C. 611.

Pauper who lived in a cottage belonging to a mill where his children worked, and from whose wages a weekly sum was deducted for the use of the cottage, occupied as tenant and not as servant, and acquired a settlement: *Rex v. Bishopston*, 9 A. & E. 824.

A tenement was let to A. and B. as joint tenants, the landlord refusing to let to A. without joining B. A. alone entered and occupied, and the rent being less than 20*l.* he did not gain a settlement under 14 Car. 2, c. 12: *Rex v. Aberdaron*, 1 Q. B. 671; 10 L. J. M. C. 95.

SETTLEMENT BY RENTING A TENEMENT—VALUE OF THE TENEMENT.

An entire tenement of the annual value of 10*l.* will confer a settlement, though it lie in different places: *South Sydenham*, 2 Sess. Ca. 198; 1 Str. 57; 10 Mod. 388; Cald. 139; Sett. & Rem. 79.

The reason of the statute is this, that a man who is entrusted with a tenement worth 10*l.* a year is of such credit and must have such a stock as make him not likely to become chargeable to the parish, *per Parker, C. J.*: *South Sydenham v. Lamberton*, Bott.

A farm rented at 14*l.* a year by two persons jointly, but the rent paid, the stock stinted, and the profits taken separately by each is not a tenement of sufficient value to each to confer a settlement: *Croft v. Gainsford*, Bott.

Renting a tenement above 10*l.* per annum in two parishes gives a settlement in the parish where the occupier lives: *Elstead v. Holliburne*, Str. 849.

A house of the value of 6*l.* 10*s.* a year taken at a rent of 10*l.* a year under a covenant that the landlord should erect new buildings, but which were in fact never erected, is not a tenement of 10*l.* a year: *Southwold v. Yokeford*, Burr. S. C. 140; Str. 1127.

A farm taken at 10*l.* a year, although it had been let for and was worth no more than 7*l.* a year, is a tenement of sufficient value, unless it be expressly found that the taking was fraudulent: *Rex v. Weston*, Burr. S. C. 166.

A tenement rented by two persons jointly at 16*l.* per annum did not gain a settlement to either tenant: *Rex v. Marden*, Burr. S. C. 311.

The value of the tenement shall be estimated by and taken according to the rent, if no other evidence of value appear; and therefore a sole tenancy in a house of 8*l.* a year, and a joint tenancy in land of 3*l.* 15*s.* do not form a tenement of 10*l.* a year: *Kniveton v. Tissington*, Burr. S. C. 499.

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A tenement of 10*l.* a year taken without fraud will confer a settlement, although the tenant live only in one part of it worth 40*s.* a year, and underlet the remainder to different tenants: *LlandeVERRAS v. Northop*, Burr. S. C. 571; S. C. W. Bl. 603.

A tenement of the value of 10*l.* a year taken for five months at the gross sum of 4*l.* for the five months will by a residence of 40 days on it, confer a settlement, (but see 59 Geo. 3, c. 50): *St. Matthew's, Bethnal Green v. St. Botolph's, Aldgate*, Burr. S. C. 574.

A public-house, taken at 10*l.* a year, though the landlord is to pay all parish rates and charges assessed thereon, is a tenement of sufficient value: *Rex v. Framlingham*, Burr. S. C. 748.

A tenement under the value of 10*l.* a year, rented from year to year, which at any time during the occupation of it becomes of the value of 10*l.* a year, will confer a settlement, although no alteration be made in the rent: *Rex v. Bilsdale Kirkham*, 3 Burr. 523.

A tenant at will underlets, and the landlord afterwards receives rent, sometimes from his tenant and sometimes from the undertenant. The tenant, after the underletting, took another tenement which made up 10*l.* Held, that he continued tenant of the first tenement and thereby gained a settlement: *Rex v. Maghull*, Bott.; S. C. Cald. 429.

A fraudulent renting of a tenement of 10*l.* a year, as, taking a farm of that value without being able to stock it, will not confer a settlement: *Ashburton v. Woodland*, 1 T. R. 261.

Services may be considered in estimating the value of the tenement: *Simonburn v. Melkridge*, 1 T. R. 598.

Land of the value of 6*l.* 10*s.* a year, on which the tenant built a post windmill, and which by agreement with his landlord he was to take away on quitting the premises, is not a tenement of sufficient value, although he let the mill for 9*l.* a year: *Rex v. Londonthorpe*, 6 T. R. 377.

Pauper rented two farms of the yearly value of 10*l.* in A., and lived 40 days in one of two separate tenements in B., rent free, of the yearly value of 35*s.*, by permission of one who occupied the other tenement, but who received no rent from the pauper, but had all the manure made by his cattle there. The pauper gained a settlement in B.: *Rex v. Fritwell*, 7 T. R. 197.

A tenement found to be of the value of 4*s.* a week at all times of the year if let by the week, but not to be of the value of 10*l.* a year if let by the year, will not confer a settlement on the occupier by residing therein for 40 days: *Rex v. Hellingley*, 10 East, 41.

Settling for 40 days upon a tenement of the yearly rent of 10*l.*, the landlord paying rates and taxes, will confer a settlement upon the tenant: *Rex v. St. Paul, Deptford*, 13 East, 320.

The taking of a tenement which, by having been cropped when let to the tenant, was worth 10*l.* a year, but without being cropped would have been of less annual value, will confer a settlement: *Rex v. Purley*, 16 East, 126.

The renting of an acre of prepared land at 8*l.* from Easter to October for planting potatoes, was considered as a tenement of the yearly value of 8*l.*, although the case stated that in a common way an acre of such land would not let for more than 2*l.*: *Rex v. Ringwood*, 1 M. & S. 381.

The value of a tenement in respect of acquiring a settlement is to be taken as of the time when the occupier comes to settle upon it; hence, where a man took a piece of land for 99 years at the rent of 2*l.* 2*s.* a year, on which he built two houses, each of 5*l.* 5*s.* yearly value, in one of which he lived and let the other at 5*l.* 5*s.* a year: held, that he did not gain a settlement: *Rex v. Aston*, 6 M. & S. 54.

An unstamped agreement in writing for the letting of a tenement at a

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certain rent having been lost; held that parol evidence of its contents was *Decisions on* not admissible for the sake of proving thereby the value of the tenement: *sect. 1.*
Rex v. Castle Morton, 3 B. & Ald. 588.

A landlord demised a house and fixtures to a tenant at an annual rent of 10*l.*, and the tenant paid rates in respect of the same, but the house was not rated at 10*l.* per annum: held, that the fixtures being part of the tenement, and the whole being of the annual value of 10*l.*, the tenant gained a settlement by payment of rates: *Rex v. St. Dunstan*, 4 B. & C. 686.

Where pauper contracted in writing for the purchase of two cottages at the price of 70*l.*, and paid 10*l.* on account at the date of the agreement, but never afterwards paid the remainder: held that he had not such an equitable estate as to render him irremovable from the parish in which the property was situated: *Rex v. Woolpit*, 4 D. & R. 456.

From the year 1811 the pauper occupied a cottage and ferry for eight years at the annual rent of 9*l.* 10*s.* He had also for the purposes of the ferry, the use of a boat and line, the value of which was not found by the sessions. He also occupied in the same parish during one of the years a garden for which he paid 10*s.*: held that he gained a settlement under 14 Car. 2, c. 12: *Reg. v. Fladbury*, 8 L. R. M. C. 83; 2 P. & D. 471.

Upon an appeal against an order of removal, the respondents, in proof of a derivative settlement by renting a tenement, tendered evidence of the amount of rent paid by the ancestor,—that he, whilst in the occupation of the tenement, said to his son that he occupied the same as a tenant, at a rent of 20*l.* per annum:—This evidence was held admissible to prove that fact: *Reg. v. Birmingham*, 1 B. & S. 763; 5 L. T. (N. S.) 309; 26 J. P. 198; S. C. *Kingswood*, app., *Birmingham*, resp., 8 Jur. (N. S.) 37.

A declaration by a deceased occupier of a house that he rented it of A. B. at 22*l.* a year, and paid the rent for the same, is good evidence not only of the tenancy, but of the amount of rent and its payment; and *semble*, independently of such declaration, the undisturbed occupation of premises for some years (*e. g.* 4 years) is of itself sufficient to lead to the presumption of the fact of payment of the rent: *Reg. v. City of Exeter*, L. R. 4 Q. B. 341; 20 L. T. (N. S.) 693; 38 L. J. M. C. 126.

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The taking of the tenement need not be for a whole year: *Gratwich v. Shenston*, Burr. S. C. 474.

If a person agree to pay 27*l.* 6*s.* for part of a farm from the 1st June to Lady Day following and enter upon it accordingly, this taking is sufficient to confer a settlement: *Staunton-under-Bardon v. Ulescroft*, Burr. S. C. 558.

A pauper took a tenement at 10*l.* a year, which he occupied, still receiving parish relief for six months after, having previously agreed to underlet a part for 5*l.* a year, and the undertenant guaranteed to the landlord the payment of the rent, but the pauper paid the whole rent for the first year: held that this was a coming to settle upon a tenement of 10*l.* a year within 14 Car. 2, c. 12, by occupying which for 40 days irremovable, the pauper gained a settlement: *Rex v. Hooe*, 4 East, 362.

A person held a house at the annual rent of 8*l.* from Lady Day to Michaelmas, and a different house for the following half year at the annual rent of 9*l.* and during the whole of that period he was tenant of a garden at an annual rent of 2*l.* 2*s.*, but he had agreed with another person that they should share the expense and the profits of the garden, and that person paid him half the rent, but he paid the whole to the landlord; held, that he did not gain a settlement because he did not during the whole year, as required by 59 Geo. 3, c. 50, hold a house and occupy land, which together were of the annual value of 10*l.*: *Rex v. Tonbridge*, 6 B. & C. 88.

Where a person after the 59 Geo. 3, c. 50, hired a tenement of the annual

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value of 10*l.*, and held it for more than a year, but died before the whole year's rent was paid, he was held to gain no settlement, although after his death, and after the 6 Geo. 4, c. 57, the rent was paid out of money produced by the sale of his goods: *Rex v. Carshalton*, 6 B. & C. 93.

Pauper married a widow. Her first husband at the time of his death (September, 1826) rented a cottage in M., at 50*s.* a year, payable in June and December. The widow did not take out administration, but continued to reside on the premises with her children till her marriage with the pauper, and paid the rent due in December, 1826, and June, 1827. She married the pauper in September, 1827, and he then occupied the cottage and paid the rent in December, 1827, and for several subsequent years. These facts were held sufficient to show that the widow at her first husband's death commenced a new tenancy on her own account, and did not continue in possession as a person entitled to take out administration, but neglecting to do so, and if the new tenancy were established the pauper obtained a settlement in M., but not otherwise: *Rex v. Barnard Castle*, 2 A. & E. 108; 4 N. & M. 128.

A pauper hired a house in W. at 17*l.* per annum, for a year, and resided in it and occupied it for a year; after the expiration of the year, while some rent was unpaid, he was removed to B. Pending an appeal against the order he returned to W., resided in the house from 7th December, 1833, to 27th January, 1834, and paid the arrear of rent due for the expired year: held that the pauper gained a settlement at the time of payment of the arrear, and the sessions having confirmed the order of removal showed only that he had not completed a settlement at the time of the order: *Rex v. Willoughby*, 4 A. & E. 143; 5 L. J. M. C. 35; 5 N. & M. 457.

Pauper married a daughter of a testator before his death, and after his death lived with his wife in a house, part of property devised by trustees to sell, for more than 40 days, paying rent to the trustees, after which the property was sold and the money divided; held, that the pauper gained no settlement: *Reg. v. St. Margaret, Leicester*, 11 L. J. M. C. 48; 1 G. & D. 625.

The husband of a pauper took a house in parish M., at 30*l.* per year from 29th September, 1853, paid three quarters' rent and taxes, and occupied until September 16th, 1854, when he died. The widow continued to occupy until September 29th, 1854, and paid that quarter's rent, and then left: held that she did not acquire a settlement by such occupation in the parish: *Reg. v. St. Marylebone*, 26 L. T. 58.

A pauper, who was one of the co-heiresses of a testator, resided on devised property for more than 40 days after the death of testator's wife, and until it was sold under the will, when she received her share of the purchase money: held, that she had such a legal title, coupled with an equitable interest as conferred a settlement by estate: *Reg. v. Burgate*, 3 E. & B. 823; 23 L. J. M. C. 143; 18 J. P. 631.

A ground of appeal against an order of removal was, that in or about the year 1830, the pauper being possessed of a cottage or dwelling-house, situate and being in the respondent township for a certain term of years then unexpired, or as tenant thereof from year to year, under a yearly or other renting, intermarried with the said J. L., and that the said L. J. thereby became and was possessed of the said cottage, or of an estate or interest therein in right of his wife, and that after his marriage and whilst he was so possessed, and he resided and slept 40 days in the respondent township, and thereby gained a settlement. On the hearing, the birth of J. L. in the respondent township was proved, but it also appeared that when the pauper married she had been and was then living as the tenant of a cottage in the respondent township, and that she and her husband lived there after the marriage for upwards of a year: held that there was some evidence to war-

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rant the sessions in finding a settlement by reason of a tenancy for a term *Decisions on* of years, or from year to year, as alleged in the ground of appeal: *Reg. v. sect. 1.* *Halifax*, 24 L. J. M. C. 65; 1 Jur. (N. S.) 181; 4 E. & B. 647; 24 L. T. 269; 19 J. P. 244.

SETTLEMENT BY RENTING A TENEMENT—RESIDENCE.

A pauper who obtained a certificate before he completed 40 days' residence upon a tenement of the yearly value of 10*l.* avoided such certificate by completing such residence, and acquired a settlement: *Rex v. Findern*, Cald. 426.

Residence for 40 days is necessary to complete a settlement by renting a tenement of 10*l.* a year: *Rex v. Dilwyn*, Burr. S. C. 54.

Residence for 40 days in a parish where a man has an estate of his own (except it be by purchase under 30*l.*) is sufficient to gain a settlement, though the residence be not on the estate or successive: *Rex v. Sowton*, Burr. S. C. 125.

A man's wife and children cannot be removed from the parish in which he has an unexpired term of a tenement above 10*l.* a year, although he occasionally reside in another place, and is absent from it more than 40 days previous to his wife and children becoming chargeable: *Rex v. Leeds*, Burr. S. C. 524.

Taking part of a farm of the value of 10*l.* a year, for less than a year, if there were 40 days' residence, gained a settlement: *Rex v. Staunton*, Burr. S. C. 558.

Two distinct tenements taken at different times, and lying in several parishes, make a settlement where the pauper lives: *Rex v. St. Lawrence, Winchester*, Burr. S. C. 588.

If a person alternately reside more than 40 days in the whole in each of two parishes, the settlement shall be where he lodged the last night: *Rex v. Lowess*, Burr. S. C. 825.

A person renting and occupying a tenement of 10*l.* annual value in one parish cannot gain a settlement by residing 40 days in another parish, where no part of his tenement lies and where he occupies nothing: *Rex v. Topcroft, Bott*; S. C. Cald. 478.

To gain a settlement by renting a tenement of 10*l.* a year, there must be a residence either on the premises or in the parish where they lie: *Rex v. Knighton*, 2 T. R. 48.

A residence of 33 days by a widow on a tenement of 10*l.* a year, cannot be coupled with a residence on the same tenement with her husband for 16 days preceding: *Rex v. South Lynn*, 5 T. R. 664.

A residence of 29 days, although the pauper was forcibly prevented from residing the remaining 11 days is not a sufficient residence to gain a settlement: *Rex v. Llanbedergoch*, 7 T. R. 105.

A person who rents a farm in parish A., of 10*l.* a year, and resides in B., rent free by the permission of a relation, on a separate tenement worth 35*s.* a year, gains a settlement in B.: *Rex v. Fritwell*, 7 T. R. 197.

A. took a tenement at 10*l.* per annum in B., and after living in it with his family five days, he was arrested and sent to prison in C., but his wife and children continued in it seven weeks longer: held, that no settlement was gained in B. by either husband or wife: *Rex v. St. George the Martyr*, 7 T. R. 466.

If a man has a tenement above 10*l.* a year in A., and another under 10*l.* a year in B., and upon the whole he slept in B. above 40 days, and particularly on the night when both the tenancies expired, his settlement is in B.: *Rex v. St. Mary, Lambeth*, 8 T. R. 240.

One may gain a settlement by renting a tenement above 10*l.* a year in the parish where he resided, though such residence were in a turnpike

SETTLEMENT BY RENTING A TENEMENT—RESIDENCE—*continued.*

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house as servant to the collector, for whom he received the tolls: *Rex v. Denbigh*, 5 East, 333.

There cannot be a guardian in soccage of an equitable estate; and therefore where pauper married the widow of a man who had paid for and been let into possession of a freehold cottage, and had died leaving a daughter, but without having had any legal conveyance executed to him, it was holden that the pauper's residence in the cottage for 40 days did not confer a settlement on him, the widow not being guardian in soccage to the daughter: *Rex v. Toddington*, 1 B. & Ald. 560.

A person does not gain a settlement by having hired a tenement of more than 10*l.* a year value, and having resided there more than 40 days altogether, but less than 40 days before 59 Geo. 3, c. 50, by which act a residence for 12 months is necessary in order to confer a settlement: *Rex v. St. Mary-lebone*, 4 B. & Ald. 681.

Where there is no equitable or other estate, settlement by estate is not acquired by residence on the estate: *Rex v. Berkswell*, 1 B. & C. 542.

A house of the annual value of 10*l.*, was hired by A. at Michaelmas, 1824, and he died three days before the year expired, but his corpse continued in the house after the expiration of the year, and after his death his widow resided there and paid the year's rent: held, that A.'s widow and children did not gain any settlement: *Rex v. Crayford*, 6 B. & C. 68.

It is not necessary to the gaining a settlement by coming to settle upon a tenement, that the pauper should reside upon any part of it: *Rex v. Kenardington*, 6 B. & C. 70.

Where children do not take an estate until after the death of the tenant for life of another estate, they will not gain a settlement by residence in the parish where the estate is during the lifetime of the tenant for life: *Rex v. Ringstead*, 9 B. & C. 218.

Settlement is not gained by residence on an estate after the death of the tenant, when letters of administration have not been taken out: *Rex v. Okeford Fitzpaine*, 1 B. & Ad. 254.

A curate licenced by the bishop at a yearly salary, resided in the rectory house, which was duly assigned to him, and was above the value of 10*l.* a year, for more than 40 days before 59 Geo. 3, c. 50: held, that this was a coming to settle within 14 Car. 2, c. 12, and that a settlement was gained thereby: *Rex v. St. Mary, Newington*, 5 B. & Ad. 540.

A devisee of a copyhold was admitted after he had resided more than 40 days on the copyhold. His son became emancipated after the expiration of the 40 days, and before the admittance: held, that the father by such residence gained a settlement which was communicated to the son: *Rex v. Thrusercross*, 1 A. & E. 126; 3 L. J. M. C. 83; 3 N. & M. 284.

Four persons being next of kin of an intestate, who died possessed of a term in C., one of them took out administration; and the four then joined in a mortgage of the term, and raised a sum thereby, which was divided equally among them. Afterwards one of them verbally agreed to sell his interest to another (neither being the administrator) for a sum of money, and in consideration that the purchaser would take the seller's share of the mortgage debt on himself, and pay the interest, and he received the money from the purchaser accordingly; held, that the person so selling gained no settlement by subsequent residence in C.: *Rex v. Cregrina*, 2 A. & E. 536; 4 L. J. M. C. 89.

The wife of a testator who had left a mortgaged estate to trustees to sell, and resided in the parish where the land lay, but not on the land: the trustees resided on the land, and did not sell or render an account; held, that a wife gained a settlement by residence: *Rex v. Astackby*, 5 L. J. M. C. 115; 5 A. & E. 200; 6 N. & M. 582.

While a trust continued and before a copyhold estate was surrendered by

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a pauper to the trustees, he resided 40 days in the parish in which the copyhold lay, but not on the estate; he gained a settlement by such residence: *Decisions on sect. 1. Rex v. Ardleigh*, 7 A. & E. 70; 6 L. J. M. C. 151.

The pauper's father applied to take a tenement. The landlord refused to let it to him unless another person would become joint tenant. He and that other person became joint tenants accordingly, at a rent of 17*l.* per annum. The pauper's father entered alone into the occupation of it, and continued there some years. He paid the whole of the rent, but the name of the other joint tenant was inserted with his in the receipts; under 14 Car. 2, c. 12, he gained no settlement: *Reg. v. Aberdaron*, 1 Q. B. 671; 10 L. J. M. C. 95; 1 G. & D. 178.

Pauper in 1828 purchased a leasehold interest in I., for an unexpired term, subject to an annual rent of 150 guineas. He occupied the premises more than 40 days, and then finally quitted them, and ceased to reside within ten miles of I.: held that he gained a settlement there, by virtue of a possession of an estate or interest in I., within 4 & 5 Will. 4, c. 76, s. 68, but that he lost it when he removed to a distance of 10 miles: *Reg. v. St. Giles-in-the-Fields*, 2 Q. B. 446; 11 L. J. M. C. 18.

The father of a pauper had gained a settlement in B. on the 6th April, 1837, by renting a tenement. He had also been the owner of a freehold estate in C. for some years before, and down to 1838, and it was admitted that on the 27th April, 1837, he had resided and slept for more than 40 days upon his estate in C. Since the purchase of it, several days' residence between the 6th and 27th April, 1837, being included in the computation of such 40 days; held, that the residence in C. had the effect of superseding the settlement in B., and of establishing a subsequent settlement in C. to which the pauper might properly be removed: *Reg. v. Knaresborough*, 16 Q. B. 446; 20 L. J. M. C. 147; 15 J. P. 259.

POOR REMOVAL—AUTHORITY OF JUSTICES.

Where a constable without a warrant brought a child from Broughton to Banbury, the justices of Banbury made an order of removal, in which they recited the fact, and returned the child to Broughton, there to be provided for according to law. The court held the order good for returning the child to the wrongdoers: *Rex v. Banbury*, Comb. 364, 372.

An order of justices not saying in what county is bad, and the clerk of the peace cannot cure the defect in the original order by inserting the county. The order must say that the justices are of the place: *Reg. v. Uplin*, Sett. and Rem. 27.

In an order of removal the authority of the justices must be stated: *Walton v. Chesterfield*, 5 Mod. 322.

An order was made by two justices to remove a poor person, and exception was taken that it did not appear by the order that the justices were of the *division*, or that either of them were of the *quorum*; the last was held a good exception (but now see 26 Geo. 2, c. 27), but the first overruled, for in that the statute is only directory: *Rex v. Dobbyn*, Salk. 473.

The justices could not remove a pauper to an extra parochial place: *Bridewell v. Clerkewell*, Salk. 486.

The justices could not remove a pauper from an extra parochial place; because there were no parish officers to lodge the complaint: *Forest of Dean v. Linton*, Salk. 487; Foley, 97.

An order removing a pauper to a master by whom he had been hired for a year, instead of to the parish in which the pauper was settled, is bad: *Rex v. Gravesend*, Bott.

The justices could not order the officers of the parish where the pauper is settled to relieve her, she being too ill to be removed, (but see 35 Geo. 3, c. 101): *Clypton v. Ravistock*, Sett. & Rem. 49.

POOR REMOVAL—AUTHORITY OF JUSTICES—*continued.*

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sect. 1.*

The justices have no power to make an order of removal to continue "till the next session:" *Bratton v. Usley*, Sett. & Rem. 53.

If two justices make an order of removal improvidently they may grant a *supersedeas*: *Pancras v. Rumbold*, Str. 6.

A single justice may hear the complaint; but the order of removal must be by two justices: *Rex v. Westwood*, Str. 73; Sett. & Rem. 107.

The justices cannot remove more than one family by the same order of removal: *Chewton v. Compton Martin*, Str. 471.

If a parish lie in two counties, and an overseer be appointed by the justices of one of the counties, any two justices may remove a pauper into that part of the parish for which no overseer is particularly appointed, for as to this purpose the person chosen by the justices of one county is the officer of the whole parish: *Rex v. Mereval*, Burr. S. C. 661.

The justices cannot remove a pauper to a hamlet within a parish unless it be a township or vill within 14 Car. 2, c. 12: *Rex v. Tamworth*, Cald. 28.

The justices could not make an order of removal to a place which did not maintain its own poor separately: *Rex v. Swalecliffe*, Cald. 248.

An alteration can be made in an order of removal by one justice in the presence of the other before delivery and without its being resealed: *Rex v. Llanwinio*, 4 T. R. 473.

An order of removal, signed by two justices separately in different counties is only voidable, not void: *Rex v. Stotfold*, 4 T. R. 596.

If it do not distinctly appear on an order of removal that the justice who made it had jurisdiction, it is a nullity, and not merely voidable; and the parish to which it is directed may object to it at any distance of time, though they never appeared against it, and though they have acted under it for 20 years: *Rex v. Chilvers Coton*, 8 T. R. 178.

The pauper being a settled inhabitant of A. subsequently acquired a settlement in B. The latter township afterwards ceased to exist as a place capable of maintaining its own poor separately; held, notwithstanding, that the previous settlement in A. having been extinguished, the pauper could not be removed from a third township as to the place of his last legal settlement: *Rex v. Saighton-on-the-Hill*, B. & Ald. 162.

Where a district previously extra parochial was by Act of parliament made a township, and it was provided that from thenceforth it should maintain its own poor and repair its own roads and have the like powers, privileges and immunities, and be subject to the same regulations as other townships within the county, it was held that the provision was prospective only, and that a bastard born within the district previously to the passing of the Act was not settled there: *Rex v. Oakmere*, 5 B. & Ald. 775.

An order of removal, signed by two justices, one of whom at the time was churchwarden of the removing parish, is bad: *Rex v. Great Yarmouth*, 6 B. & C. 646.

Where justices have examined a pauper as to his settlement, and have refused to make an order of removal, the court will not inquire into the discretion they have exercised; nor will the court order justices to alter an examination of a pauper according to the facts so as to make it sufficient evidence of settlement: *Reg. v. Rogers*, 12 L. J. M. C. 50; 9 J. P. 240.

The complaint to be made under 14 Car. 2, c. 12, prior to an order of removal need not be in writing: *Reg. v. Bellingham*, 13 L. J. M. C. 75; 8 J. P. 660.

A statement that the pauper is residing in the workhouse in P. and is chargeable to the township of P. was sufficient evidence of chargeability: *Reg. v. Manchester*, 14 L. J. M. C. 126.

It is not an objection to an order of removal that the place at which it

POOR REMOVAL—AUTHORITY OF JUSTICES—*continued.*

is made is not stated in it: *Reg. v. Halifax*, 17 L. J. M. C. 158; 12 Jur. *Decisions on*
790. *sect. 1.* —

A lunatic who has become chargeable, and who is not shown to be unfit to be at large, is removable to his settlement under a common order of removal: *Reg. v. Barnsley*, 12 Q. B. 193; 18 L. J. M. C. 170; 13 J. P. 329.

A statement that the paupers "have introduced themselves into a parish and have become chargeable to the same," is not a sufficient statement of their having come to inhabit to justify an order of removal: *Reg. v. Willatts*, 14 L. J. M. C. 157.

Where a relieving officer of a union said he had paid the pauper's parish relief upwards of a year, and that he had given 2s. 6d. weekly on account of township S., out of money in his hands belonging to the township, this was not a sufficient statement of chargeability: *Reg. v. Bradford*, 8 Q. B. 571; 15 L. J. M. C. 117; 10 J. P. 375.

An order of removal which does not show the jurisdiction of the justices making it is void: *Reg. v. Crowan*, 14 Q. B. 221; 19 L. J. M. C. 20; 14 J. P. 207.

POOR REMOVAL—STYLE OF JUSTICES IN ORDER.

An order of removal need not state that the justices are of the division in which the pauper lived: *Anon.* Salk. 473.

In an order of removal the persons removing must be styled "justices of the peace:" *Rex v. Upton*, Sett. & Rem. 27.

Formerly an order of removal was bad unless it appeared that one of the justices was of the quorum: *Albrighton v. Skipton*, Str. 300.

If an order state the justices to be justices in the county, instead of *for* the county, it is bad: *Rex v. Oulton*, 2 Salk. 474; 2 Sess. Ca. 76.

If an order be directed to the officers of two parishes in different counties, and the justices are stated to be "justices for the county aforesaid," it is bad for uncertainty: *Rex v. Stepney*, Burr. S. C. 23; S. P.; *Rex v. Chilvers Cotton*, 8 T. R. 178.

An order of removal stating the justices to be justices for the county by its common appellation of "Shropshire," instead of "Salop," is good, for such is well enough both in orders and Acts of parliament: *Rex v. Madely*, Burr. S. C. 202.

An order of removal in which the justices state themselves to be justices for "a borough or town and parish," is sufficiently certain: *Rex v. Andover*, Cald. 373.

Where two counties have been mentioned in the antecedent part of an order of removal, the justices making the order must state themselves to be justices of the proper county; and it is not enough to describe themselves justices of the peace in and for the *said county*, although the proper county were named in the margin, and were also named last before such description of the justices: *Rex v. Moor Critchell*, 2 East, 66.

But where an order of justices was directed to the parish of W., in the county of R., and also to the parish of M. in the county of L., and the words "county of R." were then written in the margin, and the justices were in a subsequent part of the order, described as justices of the peace *for the county aforesaid*, it was held that it thereby sufficiently appeared that they were justices for the county of R.: *Rex v. St. Mary, Leicester*, 1 B. & Ald. 327.

Where a county was named in the margin of an order of removal, the order was addressed "to the overseers of the poor of the parish of A., and to the overseers of the poor of the parish of B., in the said county," and recited a complaint by the overseers of the poor "to us whose names are

POOR REMOVAL—STYLE OF JUSTICES IN ORDER—*continued*.

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hereunto affixed, being two of Her Majesty's justices of the peace in and for the said county," it was held that the jurisdiction of the justices sufficiently appeared on the face of the order, since the county in the margin is to be considered as part of the order, and there was only one county mentioned; and for the same reason it sufficiently appeared in what county parish B. was situated: *Reg. v. Costerton*, 14 L. J. M. C. 5; 6 Q. B. 507; 9 J. P. 117.

Justices need not sign their christian names at full length to an order of removal: *Reg. v. Worthenbury*, 7 Q. B. 555; 14 L. J. M. C. 144; 9 J. P. 697.

The description in an order of removal of "police magistrate" sitting, &c., is sufficient to show the jurisdiction of a single magistrate under 2 & 3 Vict. c. 71, s. 14: *Reg. v. St. Giles-in-the-Fields*, 7 Q. B. 529; 15 L. J. M. C. 122; 10 J. P. 553.

An order of removal is bad if it do not state a complaint of the actual chargeability of the pauper: *ib*.

An order of removal having "borough of D." in the margin reciting a complaint of the overseers of a parish in the boroughs of D., R., and L., "being two of Her Majesty's justices of the peace having jurisdiction within and for the said borough," and not otherwise showing that the order was made within the jurisdiction, is bad: *Reg. v. Newton Ferrers*, 9 Q. B. 32.

POOR REMOVAL—COMPLAINT OF CHARGEABILITY.

An order of removal must not only state it to have been made upon complaint, but upon complaint of the parish officers: *Weston Rivers v. St. Peter's*, Salk. 492; Carth. 562; Sett. & Rem. 18; Foley, 72.

An order referring to the person by whom the complaint was made is good: *Rex v. Kidderminster*, 11 Mod. 265.

An order stating that it was made upon complaint of the two parishes named is good: *Spalding v. St. John Baptist*, Foley, 267.

An order of removal, stated to be made upon hearing "the differences, allegations, proofs," &c., is bad; for they do not amount to a complaint: *Shackford v. Northbovey*, Sett. & Rem. 33.

An order cannot remove more persons than the parish officers have complained of as being chargeable: *Rex v. Newington*, Sett. & Rem. 45.

An order, stating that the pauper hath endeavoured to intrude into the parish was bad; for he could not be removed from a place in which he never was: *Rex v. Graftham*, Sett. & Rem. 16.

An order in which the complaint was expressed to be made by "you," without saying which parish complained, was held good: *Horsham v. Henfield*, Burr. S. C. 24.

In an order of removal it was necessary to show that the persons removed actually came into the parish, and endeavoured to settle: *Rex v. South Marston*, Str. 189.

An order of removal is bad if it do not set forth any complaint made, for the complaint is the foundation of the justices' jurisdiction: *Rex v. Hareley*, Andr. 361.

An order of removal need not state that the complaint was made upon oath: *Rex v. Standish cum Langtree*, Burr. S. C. 150.

The omission of complaint and adjudication in an order of removal is not matter of form, and therefore cannot be amended by the sessions: *Great Bedwin v. Wilcot*, Str. 1158.

An order of removal made upon complaint that M. S., the wife of W. S., who is absent from her, is come to inhabit, &c., and is now with child, which is likely to be born a bastard, adjudging the said M. S. to be actually chargeable, was held sufficient in form, though the complaint did not state

POOR REMOVAL—COMPLAINT OF CHARGEABILITY—*continued.*

that she was actually chargeable: *Rex v. Inskip with Sowerby*, 5 M. & S. *Decisions on* 299. *sect. 1.*

The complaint to justices under 14 Car. 2, c. 12, prior to an order of removal need not be in writing: *Reg. v. Beddingham*, 13 L. J. M. C. 75.

An order for the removal of a woman and her illegitimate child under seven years old, was grounded on a notice of the chargeability of the mother only; but as the child could not be separated from the mother, it was held immaterial whether the child was mentioned in the order or not: *Reg. v. Stockton-on-Tees*, 14 L. J. M. C. 128; 7 Q. B. 520; 9 J. P. 570.

It must appear on the face of an order of removal that the complaint was made to the removing justices within their jurisdiction, and this sufficiently appears if the order recites the complaint to have been made to "A. B. and C. D., justices of the peace in and for the county of ——" *ib.*

POOR REMOVAL—EXAMINATION OF THE PAUPER.

The person to be removed ought to have notice of, or be present at the examination: *Anon. Comb.* 478.

An order of removal, stating that the examination was "before us or one of us," is bad: *Ware v. Stanstead*, Salk. 488; 7 Mod. 54.

An order, of removal, stating that it was made on due examination, is good, without stating that the examination was on oath: *Mungerhanger v. Warden*, 2 Sess. Ca. 40.

The examination must be by the two justices who sign the order of removal: *Rex v. Wykes*, Str. 1092; Salk. 488; Andr. 238.

An order of removal ought to state that the paupers were summoned and heard: *Rex v. Wykes*, Andr. 238.

An order of removal, stating it to have been made upon due consideration instead of examination is sufficient: *Rex v. Fetherton*, 2 Sess. Ca. 45.

The justices of one county cannot make an order of removal on an examination taken and transmitted to them by justices of another county, although such examination be verified by oath that it was duly taken: *Rex v. Coln St. Aldwin's*, Burr. S. C. 136.

The examination of a pauper, for the purpose of removal, must be taken and signed by two justices, in the presence of each other: *Rex v. Howarth, Bott.*

An order of removal need not state an examination or summons of the pauper: *Rex v. Bagworth*, Cald. 179.

The testimony of the father to prove the derivative settlement of his children may be dispensed with, where his attendance cannot be procured: *Rex v. Bucklebury*, 1 T. R. 164.

The death-bed declarations of paupers respecting their settlement are evidence, as are also, when they are dead, their general declarations: *Rex v. Bury*, Cald. 482.

Declarations of a husband to his wife respecting his settlement, after his death, seem to be admissible evidence; but if the declarations refer to a written instrument, unless previous inquiry shall have been made after it, they cannot be received in evidence: *Rex v. St. Sepulchre*, Cald. 547.

It seems that a pauper who refuses on his examination to answer a proper question may be committed by the magistrates "until he shall answer:" *Rex v. Jackson*, 1 T. R. 653; Carth. 153, 291.

If two justices take the examination of a pauper relative to his settlement, but do not remove him, and the pauper afterwards dies or becomes insane, *quære*, whether two other justices may remove his family on such examination: *Rex v. Eriswell*, 3 T. R. 707.

An *ex parte* examination, in writing, of a pauper, taken on oath before

POOR REMOVAL—EXAMINATION OF THE PAUPER—*continued.*

Decisions on
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two justices, for the purpose of removing him to the place of his settlement is not admissible in evidence on appeal against an order of removal, on the ground of the pauper's having absconded between the notice of the appeal and the trial at the quarter sessions, although the respondents had used due diligence without effect to procure the attendance of the pauper as a witness: *Rex v. Nuneham Courtney*, 1 East, 373.

Where a case stated the bare fact of a pauper's having received relief from the respondent's parish, it was holden that this was not even *prima facie* evidence of a settlement there, since he might have been relieved as casual poor, which the overseers were bound to do if wanted, whether the pauper were settled there or not: *Rex v. Chadderton*, 2 East, 27.

Hearsay evidence of a fact is not to be received upon a question of settlement, though the person who gave the information respecting her own settlement were dead: *ib.*

Neither the hearsay of a pauper who is dead, nor his examination in writing, taken on oath before two justices touching his settlement is admissible evidence thereof: *Rex v. Ferrybridge*, 2 East, 54.

An *ex parte* examination in writing of a pauper touching his settlement cannot be received in evidence of such settlement, though he be dead: *Rex v. Abergwilly*, 2 East, 63.

Giving parish relief to a pauper within the parish is no evidence of his settlement: *Rex v. Chatham*, 8 East, 498.

Where an examination of a soldier, taken before two justices, was tendered in evidence to prove his settlement, but it did not appear by the examination itself, or by other proof, that the soldier at the time when he was examined was quartered in the place where the justices had jurisdiction, it was not admissible: *Rex v. All Saints, Southampton*, 7 B. & C. 785.

An appeal against an order of removal, grounded on a settlement by hiring and service, the respondents discovering that the examination served by them on the appellants did not state a residence in the appellant parish, moved at the sessions to discharge their own order, and it was quashed generally, with the consent of the appellants. The respondents afterwards removed the pauper again to the same parish, no change of circumstances having intervened, and on appeal contended that the discharge of the former order was not conclusive, the merits not having been in question, but the order was held conclusive: per Coleridge, J., when an order is quashed merely because respondents decline going into their case, that is a decision on the merits: *Reg. v. Church Knowle*, 7 A. & E. 471; 7 L. J. M. C. 4; 2 N. & P. 359.

The wrong facts as to a settlement having been stated in the examinations, the order was quashed by the sessions. Afterwards another order was obtained on a correct statement of facts, but the court held that the former order was conclusive: *Reg. v. Clint*, 11 A. & E. 624; 10 L. J. M. C. 151.

The chargeability of a pauper must appear upon the copy of the examination on which the order of removal was made, otherwise the respondents cannot be heard in support of the order: *Reg. v. Black Callerton*, 8 L. J. M. C. 65; 2 P. & D. 475.

The examination of a pauper stated facts tending to show admissions of a settlement by the appellant parish; the notice of objection denied the fact of any such settlement and the fact of the admissions. On appeal the sessions admitted evidence by the respondents of a settlement in the appellant parish by hiring and service, and confirmed the order of removal. Such evidence was held inadmissible under 4 & 5 Will. 4, c. 76, s. 81, and the order was quashed: *Reg. v. Eastville*, 1 Q. B. 828; 10 L. J. M. C. 132; 1 G. & D. 150.

An order of removal, grounded on an examination of the pauper: "I am

POOR REMOVAL—EXAMINATION OF THE PAUPER—*continued.*

twenty-eight years of age; I was born illegitimate at S.; I never did any act to gain a settlement," is bad, as not being legal evidence of the place or time of birth, and the fact of illegitimacy: *Reg. v. Rishworth*, 11 L. J. M. C. 34; 1 G. & D. 597. *Decisions on sect. 1.*

The jurat of an examination on which an order of removal was founded proceeded "sworn before me, &c., and I do hereby certify, &c." and signed at the end by two justices; it was held that it might be presumed, the language of the jurat being ambiguous, that the examination was in fact taken before two justices, and the error afforded no ground for quashing the order: *Reg. v. Silkstone*, 12 L. J. M. C. 5; 2 G. & D. 396.

The examination of a pauper went to set up a settlement by hiring and service, and the following ground of appeal was given against the order "because the pauper acquired a settlement in the said parish of S. by hiring and service with one J. from Lady Day to the following Lady Day, and service under the same in that parish accordingly;" held that no evidence could be received under this ground, inasmuch as it was in itself defective from the absence of any statement of time and residence, and could not be coupled with the allegations in the examination, there being no words of reference to connect them: *Reg. v. Stowford*, 12 L. J. M. C. 7; 2 G. & D. 390.

Where the sessions have heard and determined an appeal against an order of removal overruling an objection to the insufficiency of an examination, and granting no case on the point, *certiorari* will not issue to remove the order of sessions and order of removal, together with the examinations and the notice and grounds of appeal, the latter forming no part of the record of quarter sessions: *Reg. v. York W. R. JJ.*, 12 L. J. M. C. 15.

An order of removal cited that it was made upon complaint of the overseers of the parish of B. and adjudged the place of last legal settlement to be in parish E. The examinations included a copy of the information and complaint of J. S., one of the overseers of B. It was admitted on the hearing of the appeal that the application of J. S. was on behalf and with the consent of the parish officers of B. generally; held (1) that the complaint was sufficient to found the order; (2) that as the order contained an adjudication that the settlement of the children of the pauper named in the order was in E. it was not necessary to state that they had not gained a settlement for themselves: *Reg. v. Bedingham*, 1 N. S. C. 105; 13 L. J. M. C. 75.

The examinations on which an order of removal was founded, showed the maiden settlement of the pauper's mother to be in the appellant parish. They contained a hearsay statement that her husband, the pauper's father, was born in London; but there was no legal evidence of the fact, nor of any attempt made to ascertain it; held sufficient: *Reg. v. Yelvertoft*, 14 L. J. M. C. 78; 6 Q. B. 801.

Where an order of removal has been quashed, an appeal "for the insufficiency of the examinations as disclosing no settlement on the face thereof," such a decision (though not upon the merits) is conclusive between the parties upon the point of settlement: *Reg. v. St. Mary, Lambeth*; *Reg. v. Elial*, 14 L. J. M. C. 126.

In a notice of chargeability, the words "has become chargeable" are equivalent to "is chargeable." The venue "borough of K." in the margin of an order, commencing, "upon the complaint of the churchwardens," &c. under "us — and —" "being two of Her Majesty's justices of the peace for the borough of K." does not sufficiently show that the justices heard the complaint within their jurisdiction. The complaint should appear to have been heard by justices "in and for," &c.: *Reg. v. Stockton-on-Tees*, 7 Q. B. 520; 14 L. J. M. C. 128; 9 J. P. 570.

Under a ground of appeal, stating that the examinations were defective for not showing by sufficient statement of facts, that the pauper at the time of the order of removal was chargeable to the respondent parish; held that the appellants were not entitled to object that the examinations did not

POOR REMOVAL—EXAMINATION OF THE PAUPER—*continued.*

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show the residence of the pauper in the respondent parish: *Reg. v. Watford*, 16 L. J. M. C. 1.

The examinations on which an order of removal was made, stated that the pauper was with his own consent, his parents being dead, bound apprentice by indenture, dated, &c., which was duly stamped and executed by the parties thereto; held, that it sufficiently appeared that the binding was not a parish binding: *Reg. v. St. Ann, Westminster*, 16 L. J. M. C. 33; 8 Q. B. 561.

POOR REMOVAL—ADJUDICATION OF SETTLEMENT.

An adjudication of the place of last settlement is tantamount to the place of last legal settlement: *Trowbridge v. Weston*, Salk. 473.

In an order of removal, it is not sufficient that the place of last legal settlement should appear in the complaint; it must also appear in the adjudication of the justices: *Bury v. Arundel*, Salk. 479.

An order of removal, stating that it appears on the oath of A. B. that the pauper was last legally settled at C. is no adjudication: *Rex v. Hackney*, Salk. 478.

An order removing a man and his family is bad as to "his family," for some of them may have a settlement elsewhere: *Rex v. Johnson*, Salk. 485.

A conditional order of removal is bad, for, it being an adjudication, it must be absolute: *Oakham v. Whittlesea*, 11 Mod. 171.

An order of removal without an adjudication that the place of the removal was the place of last legal settlement is bad: *Rex v. Middleton*, Foley, 271.

An adjudication that the pauper was settled in a certain place according to the knowledge of the justices was bad: *Rex v. St. Mary Ottery*, Sett. & Rem. 32.

An order of removal, stating the place of a man's settlement, and therefore removing his widow there without adjudging it to be the place of her settlement, was bad: *Egburn v. Hartley Wintney*, 1 Sess. Ca. 45.

An order of removal, stating that "on examination we do believe the same to be true," was bad: *Stallingburgh v. Haxhay*, 1 Sess. Ca. 131.

The justices must adjudge the place to which a pauper is removed to be the place of his last legal settlement: *Rex v. Westwood*, Str. 73.

An order of removal adjudging the last legal "place" to be at A. was bad, the word "settlement" being left out: *Rex v. Warnhill*, 2 Sess. Ca. 91.

An adjudication on the removal of A., the wife of B. that she is settled at C., the place of her maiden settlement, is good: *Rex v. Riton*, Cald. 39.

An order removing nurse children to their derivative settlement without taking notice of the death or settlement of their parent, is good. The evidence of the father to prove their settlement may be dispensed with, where his attendance cannot be procured: *Rex v. Bucklebury*, 1 T. R. 164.

An order of removal made by two justices upon the examination of the pauper taken by one of them, pursuant to 49 Geo. 3, c. 124, s. 4, need not state the special circumstance of taking the examination, &c.: *Rex v. South Lunn*, 4 M. & S. 354.

If an order contain an adjudication as to the settlement of children, it is not necessary to state that they had not gained a settlement for themselves: *Reg. v. Beddingham*, 1 N. S. C. 105; 13 L. J. M. C. 75.

POOR REMOVAL—DIRECTION OF ORDER.

An order of removal directed to both parishes ordering one to remove and the other to receive, was bad: *Bedwick's case*, Comb. 325.

The sessions cannot order that the removal be to a third place; they can but affirm or reverse the order of removal: *Bull's case*, Comb. 396.

POOR REMOVAL—DIRECTION OF ORDER—*continued.*

An order of removal directed to the constable only is not good, for he *Decisions on* may refuse to obey it; but if he execute it the removal is good: *Rex v. sect. 1. Wangford*, Carth. 449.

An order of removal must be directed to the officers of the parish from whence the removal is made: *St. George's v. St. Olave's*, Salk. 493.

An order of removal directed to both parishes conjunctively, without saying which was to remove and which to receive the pauper, was bad: *Binfield v. Banstead*, 11 Mod. 268.

An order of removal directed to the officers of parishes in different counties, and the justices styling themselves of the county aforesaid, no county being named in the margin, was bad: *Rex v. Stepney*, Burr. S. C. 23.

If the county be named in the margin of the order of removal it is sufficient; for the margin of an order is part of the order itself: *Rex v. Holbeck*, Burr. S. C. 198; *S. P. Reg. v. Costerton*, 6 Q. B. 507; 14 L. J. M. C. 5; 9 J. P. 117.

An order of removal directed to the parish officers of "the parish, township, or division of A.," the court saw no objection to: *Rex v. Ulverstone*, 7 T. R. 565.

An order of removal was directed to the churchwardens and overseers of L., which was a vill having no churchwardens. Held, the word "churchwardens" might be rejected as surplusage, and the sessions might, under 5 Geo. 2, c. 119, s. 1, amend the order by inserting in it the words "or vill:" *Rex v. Amluch*, 4 B. & C. 757.

The margin of an order of removal is incorporated therewith so as to show jurisdiction; and there is no objection to an order that it purports to be made as well upon oath as otherwise: *Reg. v. Recorder of King's Lynn*, 15 L. J. M. C. 93; 10 J. P. 804.

An impression made on an order of removal with ink by means of a wooden block, is a sufficient sealing: *Reg. v. St. Paul, Covent Garden*, 14 L. J. M. C. 109.

POOR REMOVAL—PERSONS TO BE REMOVED.

An order of removal, which includes children, must state their several ages: *Rex v. Trinity, in Chester*, 2 Sess. Ca. 74.

An order to remove a pauper and two children was quashed for not saying whose children they were: *Reg. v. Risely*, 2 Sess. Ca. 89.

A nurse child cannot be separated from its mother: *Skeffreth v. Walford*, 2 Sess. Ca. 90.

An order of removal must state the name of the pauper removed, or describe him as a person unknown: *Southell v. Needwell*, Sett. & Rem. 57.

Where a widow having three children married a man settled in another parish, the children could not be removed with her unless they were nurse children: *Shermanbury v. Bolney*, Carth. 279.

The ages of the children must be set out when they are removed to their father's settlement, but need not when they are removed to their own: *Rex v. Heptenstall*, Burr. S. C. 88.

To render the statement of the ages of the children unnecessary the order must adjudge that the place is that of their last legal settlement: *Rex v. Ufeulm*, Burr. S. C. 138.

An order removing nurse children to their derivative settlement without taking notice of the death or settlement of their parents, is good: *Rex v. Bucklebury*, 1 T. R. 164.

Children within the age of nurture having a different settlement from their mother (who married a second time,) could not be separated from their mother and removed to their settlement, though the mother consented to such removal and wished them to be sent to their own parish: *Reg. v. Birmingham*, 5 Q. B. 210; 13 L. J. M. C. 1; 7 J. P. 705.

POOR REMOVAL—REMOVAL OF WIFE.

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The wife may be removed alone to her husband's settlement, unless it appear that they are thereby separated from each other: *St. Michael's, in Bath v. Nunney*, Str. 544.

On the removal of a wife to her husband's settlement, he shall be presumed to be there, unless the contrary appears: *Rex v. Ironacton*, Burr. S. C. 153.

On the removal of a wife "to the place of her last settlement," it shall be intended her settlement in right of her husband: *Rex v. Higher Walton*, Burr. S. C. 162.

If a foreigner, the husband of an English woman whose father was certificated, lived with and supported his wife and family in the certificated parish, but gained no settlement, his wife, although she asked temporary relief of the certificated parish, could not be removed from him to the parish from which her father was certificated, and in which she was settled by parentage: *Rex v. Carleton*, Burr. S. C. 813.

If the husband be abroad, and the place of his settlement not known, the wife may be removed to her maiden settlement, although it is uncertain whether her husband be alive or dead: *Rex v. Ryton*, Cald. 39.

If the absence of the husband be only temporary, and the wife be removed to any place *eo nomine* as the wife, it shall be presumed that the place to which she was removed was the place of her husband's settlement, although it is not so stated in the order of removal, for the general rule is that the settlement of the wife depends upon that of her husband: *Rex v. Hinxworth*, Cald. 42; Doug. 46.

The removal of a *feme covert* is evidence of the husband's settlement: *Rex v. Leigh*, Doug. 45.

On the removal of a widow it is enough in the first instance to prove her maiden settlement: *Rex v. Woodsford*, Cald. 236.

Upon the removal of a wife it is enough to prove her maiden settlement: *Rex v. Hedsor*, Cald. 371.

If husband and wife were certificated, and the wife were removed to the certifying parish by an order not appealed against, this concluded the husband's settlement to be in the same parish, though she was not removed as his wife, and he gained a settlement in the parish in which the certificate was given: *Rex v. Towcester*, Bott.

If a *feme covert* be removed by an order from A. to B., describing her as "widow," and there be no appeal against it, it is conclusive not only as to her settlement, but as to that of her husband also: *Rex v. Rudgelly*, 8 T. R. 620.

An order removing "M. F., wife of P. F., a Scotchman, who never gained a settlement in England," and their children, to the place of her last legal settlement, which order was stated on the face of it to be made on examination of the husband and with the consent of him and his wife, was holden good: *Rex v. Eltham*, 5 East, 113.

By 59 Geo. 3, c. 12, s. 33, the wife and unemancipated children of a Scotchman, who has not acquired any settlement in England must, if chargeable, be sent by a pass along with her husband to Scotland, and could not be removed to the maiden settlement of the wife: *Rex v. Leeds*, 4 B. & Ald. 498.

The wife of an Irishman, who has no settlement in England may, if deserted by him, be removed to her maiden settlement: *Rex v. Cottingham*, 7 B. & C. 615.

A wife, having been removed to her maiden settlement, upon the hearing of the appeal against the order, the respondents proved such settlement in the appellant parish, and also that the husband was born in Ipswich city, where there were several parishes, but in which of them did not appear. Held, that it was incumbent upon the respondents to show that the pauper was settled in the parish to which the removal was made, and as they had dis-

II. [Provided always that all such persons who think them- selves aggrieved by any such judgment of the said two justices may appeal to the justices of the peace of the said county at their next quarter sessions who are hereby required to do them justice according to the merits of their cause (a).] Proviso for appeal.

III. Provided also that (this Act notwithstanding) it shall and may be lawful for any person or persons to go into any county parish or place to work in time of harvest or at any time to work at any other work so that he or they carry with him or them a certificate from the minister of the parish and one of the churchwardens and one of the overseers for the poor for the said year that he or they have a dwelling-house or Proviso for persons going into other parishes to work in time of harvest with certificate of minister, &c.

(a) See 3 Wm. & M. c. 11, ss. 9, 10; 1 Vict. c. 14; 11 & 12 Vict. c. 31; 8 & 9 Will. 3, c. 30, s. 3; 35 Geo. 3, and 16 & 17 Vict. c. 97, s. 108. c. 101; 4 & 5 Will. 4, c. 76, s. 80;

POOR REMOVAL—REMOVAL OF WIFE—continued.

proved that by showing that the husband had a birth settlement in some parish in Ipswich, the sessions ought to have quashed the order: *Rex v. St. Mary, Beverley*, 1 B. & Ad. 201. Decisions on sect. 1.

The wife of a Scotchman having no settlement in England, and a lunatic, was ordered to be removed from A., where she had become chargeable to B., which was adjudged to be her lawful settlement. The order did not state where the husband was when it was made. It was held not void on the ground that it would effect the separation of husband and wife, because it was not to be presumed when it was made that the husband was residing in A. or was not residing in B.: *Rex v. Stockton*, 5 B. & Ad. 546.

It is no ground for quashing an order of removal that it removes a mother and son having settlements independent of each other: *Reg. v. All Saints, Newcastle-upon-Tyne*, 1 Q. B. 428; 10 L. J. M. C. 89; 1 G. & D. 133.

A married woman or a widow may be removed to her maiden settlement, the husband's settlement not appearing, without any proof that any inquiry has been made by the removing parish into the settlement of the husband: *Reg. v. Birmingham*, 15 L. J. M. C. 65; 8 Q. B. 410.

An Irishman, who had gained no settlement in England, had resided with his family in the respondent parish for more than five years up to Nov., 1849, when he deserted them. His wife and children continued to reside in the respondent parish till Dec., 1849, when they became chargeable, and were removed to the appellant parish, where the wife had a maiden settlement. Held, that the wife and children were removable, and were properly removed to her maiden settlement: *Reg. v. Much Hoole*, 21 L. J. M. C. 1.

APPEAL AGAINST ORDER OF REMOVAL.

The inhabitants of a township although not bound to maintain a pauper under an order of removal, had reasonable grounds for stating that they might be aggrieved by it, and the court held that they were entitled to appeal against the order: *Rex v. Bishopwearmouth*, 5 B. & Ad. 942. Decisions on sect. 2.

A parish is not "aggrieved" within the meaning of 14 Car. 2, c. 12, s. 2, notwithstanding the 4 & 5 Will. 4, c. 76, ss. 79, 84, until the actual removal of the pauper, and therefore an appeal to the sessions next after the removal is sufficiently early: *Rex v. Salop JJ.*, 6 Dowl. 28.

Such work not to gain a settlement, but persons may be removed back again.

Person refusing to go back, &c.

Punishment.

Churchwardens, &c., of parish to which such person removed, refusing to receive them, &c., may be indicted.

place in which he or they inhabit and hath left wife and children or some of them there (or otherwise as the condition of the person shall require) and is declared an inhabitant or inhabitants there. And in such case if the person or persons shall not return to the place aforesaid when his or their work is finished or shall fall sick or impotent whilst he or they are in the said work it shall not be counted a settlement in the cases aforesaid but that it shall and may be lawful for two justices of the peace to convey the said person or persons to the place of his or their habitations as aforesaid under the pains and penalties in this Act prescribed [*] And if such person or persons shall refuse to go or shall not remain in such parish where they ought to be settled as aforesaid but shall return of his own accord to the parish from whence he was removed it shall be lawful for any justice of the peace of the city county or town corporate where the said offence shall be committed to send such person or persons offending to the house of correction there to be punished as a vagabond (b), or to a public workhouse in this present Act hereafter mentioned (c) there to be employed in work or labour And if the churchwardens and overseers of the poor of the parish to which he or they shall be removed refuse to receive such person or persons and to provide work for them as other inhabitants of the parish any justice of [the†] peace of that division may and shall thereupon bind any such officer or officers in whom there shall be default to the assizes or sessions there to be indicted for his or their contempt in that behalf.

* * * * *

Recital of mischief from want of officers. On death or removal of constables, &c., justices may make and swear a new one until court leet or quarter sessions.

XV. And whereas the laws and statutes for the apprehending of rogues and vagabonds have not been duly executed sometimes for want of officers by reason lords of manors do not keep court leets every year for the making of them (d) Be it therefore enacted by the authority aforesaid that in case any constable headborough or tithingmen shall die or go out of the parish any two justices of the peace may make and swear a new constable headborough or tithingmen until the said lord shall hold a court or until next quarter sessions who shall approve of the said officers so made and sworn as aforesaid or appoint others as they shall think fit And if any officer shall continue above a year in his or their office that then in such case the justices of peace in their quarter sessions may discharge such officers and may put another fit person in his or their place until the lord of the said manor shall hold a court as aforesaid.

* * * * *

[*] Annexed to the original Act in a separate schedule.

(b) See 5 Geo. 4, c. 83.

(c) *i. e.*, in ss. 4, 5.

[†] O. omits.

(d) 5 Geo. 4, c. 83, ss. 3, 4, 5.

XVIII. And whereas constables headboroughs or tithing-men are or may be at great charge in relieving conveying with passes and in carrying rogues vagabonds and sturdy beggars to houses of correction or the workhouses herein mentioned and as yet have no power by law to make rates to reimburse themselves Be it therefore enacted by the authority aforesaid that all constables headboroughs and tithingmen so out of purse as aforesaid together with the churchwardens and overseers of the poor and other inhabitants of the said parish shall hereby have power and authority to make an indifferent rate and to tax all the occupiers of lands and inhabitants and all other persons chargeable by the Statute of the [three and fortieth*] of Elizabeth concerning the office and duty of overseers for the poor within the said parish which rate being confirmed under the hands and seals of any two justices of the peace as aforesaid the said constable headborough or tithingmen shall have power by warrant under the hands and seals of two justices of the peace to levy by distress and sale of the goods of any person or persons refusing to pay the same rendering the overplus to the owner if any shall be.

Constables, &c., may make rate to reimburse themselves;

to be confirmed by two justices; and may be levied by distress.

* * * * *

XX. And if any person or persons shall be sued for any matter or thing which he shall do in execution of this Act he may plead the general issue and give the special matter in evidence and if the verdict shall pass for the defendant or if the plaintiff be nonsuited or discontinue his suit the defendant shall recover treble damages.

In actions for executing Act general issue treble damages.

XXI. Whereas the inhabitants of the counties of Lancashire Cheshire Derbyshire Yorkshire Northumberland the bishoprick of Durham Cumberland and Westmoreland and many other counties in England and Wales by reason of the largeness of the parishes within the same have not nor cannot reap the [†] of the Act of parliament made in the three and fortieth year of the reign of the late Queen Elizabeth for relief of the poor Therefore be it enacted by the authority aforesaid that all and every the poor needy impotent and lame person and persons within every township or village within the several counties aforesaid shall from and after the passing of this Act be maintained kept provided for and set on work within the several and respective township and village wherein he she or they shall inhabit or wherein he she or they was or were last lawfully settled according to the intent and meaning of this Act and that there shall be yearly chosen and appointed according to the rules and directions in the said Act of the three and fortieth year of Queen Elizabeth mentioned two or more overseers of the poor within every of the said townships or villages who shall from time to time do perform [&†]

Recital that certain counties are unable to reap the benefit of 43 Eliz. c. 2.

Regulations for choice of overseers for townships and villages in such counties.

[*] 43th Orig.

is erroneous, the word omitted in the text is benefit].

[†] The roll is illegible here [This

[†] Interlined on the roll.

execute all and every the acts powers and authorities for the necessary relief of the poor within the said township or village and shall lose forfeit and suffer all such pains and penalties for non-performance thereof as is limited mentioned and appointed in and by the said in-part-recited Act (a).

(a) See 43 Eliz. c. 2, s. 1; 59 Geo. 3. c. 95; and 7 & 8 Vict. c. 101, s. 22.

APPOINTMENT OF OVERSEERS FOR TOWNSHIPS.

*Decisions on
sect. 21.*

The 14 Car. 2, c. 12, extends to all counties, it being equally beneficial to all, and the counties specified in section 21, are mentioned only as instances: case of *Clifton and Churcham*, 1 Foley, 10; Andr. 314.

The 14 Car. 2, c. 12, is general and extends to all counties; but a pauper could not be sent by virtue of it to an extra-parochial place, unless it be a town or vill: *Dolting v. Stokelane*, Fort. 219; *S. P. Clifton v. Chinkam*, 7 T. R. 748; Andr. 314.

The powers given by 43 Eliz. c. 2, s. 1, to appoint overseers, were by 14 Car. 2, c. 12, s. 21, extended to all townships and villages whether parochial or extra-parochial, and a *mandamus* went to appoint overseers for an extra parochial place (but now see 7 & 8 Vict. c. 101, s. 22): *Rex v. Rufford*, Str. 512.

An extra-parochial place does not come under the description of a town or village within 14 Car. 2, c. 12, and no settlement can be gained therein: *Rex v. Denham*, Burr. S. C. 35; Str. 1004, 2 Sess. Ca. 250; *Rex v. Grafton*, Burr. S. C. 101; 2 Str. 1071.

It is a good return to a *mandamus* to appoint overseers, that the place is not a village or township: *Rex v. Welbeck*, Str. 1143.

A hamlet not having overseers of its own, and never before assessed to the relief of the poor, if lying within a parish and paying church rates, is not a vill within 14 Car. 2, c. 12: *Rex v. Tamworth*, Cald. 28; Bott.

An extra-parochial place, consisting of two houses and 300 acres of land only, is not a town or village within 14 Car. 2, c. 12: *Rex v. Denham*, Burr. S. C. 35.

It must appear upon the case stated that a place either is legally and actually a vill, or at least that it is so reputed, to warrant an application for a *mandamus* to appoint overseers: *Rex v. Peterborough JJ.*, Cald. 238.

The sites and areas of ancient cathedrals, colleges, and Inns of court are extra-parochial: *ib.*

An appointment of separate overseers for the subdivisions of a parish, cannot be supported, unless it expressly appears that the parish could not reap the benefit of 43 Eliz. c. 2: *Rex v. Uttoxeter*, Doug. 346.

Where a parish consisted of several townships, some of which maintained their own poor, and had overseers separately appointed, the court granted a *mandamus* for the separate appointment of overseers for the remaining townships; and where such a parish had for a long period had more than four overseers, that was proof that they could not have the benefit of 43 Eliz. c. 2, and entitled each township to have separate overseers: *Rex v. Horton*, 1 T. R. 374.

When the sessions adjudge a place to be a vill by reputation, as a substantive fact, the court is precluded from going into the question, notwithstanding the sessions state all the evidence particularly, on which they formed their opinion: *Rex v. Ronton Abbey*, 2 T. R. 207.

Where a township had for 60 or 70 years past (and before anything appeared to the contrary), had separate overseers, and maintained its own

XXII. And be it further enacted by the authority aforesaid that the justices of peace within the said counties shall have and enjoy such and the like powers & authorities to raise and levy monies and to do and execute all and every such other act and thing whatsoever within every township or village within the said county where they are justices as is given limited and appointed unto and for them to do and execute within any parish or parishes in and by the said Act made in the said three and fortieth year of the said late Queen Elizabeth under such and the like pains and penalties for the non-performance of their duties to be levied and disposed of as is nominated and expressed in the said Act (b).

Proviso for the power of justices in such counties to raise money, &c., in such townships and villages.
43 Eliz. c. 2.

* * * * *

(b) See 43 Eliz. c. 2, s. 1, and 59 Geo. 3, c. 95.

APPOINTMENT OF OVERSEERS FOR TOWNSHIPS—continued.

poor separately from the parish at large, it was held that it was still entitled to the same privilege: *Rex v. Leigh*, 3 T. R. 746. Decisions on sect. 21.

Where a parish consisted of two separate districts, each of which immemorially made a separate rate, but the money when raised was blended together in one joint fund, though applied in certain proportions, and the sessions did not find it as a fact that the parish could not reap the benefit of 43 Eliz. c. 2, it was held, that the districts were not entitled to maintain their own poor separately and distinctly, though since the year 1648, they constantly had in the whole more than four overseers, some of whom were chosen separately by the hamlet part, which had immemorially had a constable of its own: *Rex v. Newell*, 4 T. R. 266.

Although a parish might not have the benefit of 43 Eliz. c. 2, before and at the passing of 14 Car. 2, c. 12; but perhaps at that period, and certainly for a long course of years antecedent to the years 1773-5, maintained its poor in separate districts; yet it was competent to the parishioners at the latter period to cease acting under the statute of Car. 2, and to recur to 43 Eliz. c. 2, by maintaining their poor as one entire parish: *Rex v. Palmer*, 8 East, 416; *S. P. Lane v. Cobham*, 13 East, 1.

An order of removal from one part of a parish to another part, must show that each is a separate vill, and has distinct officers, and maintains its own poor: *Rex v. Bramshaw*, Burr. S. C. 98.

An appointment by justices of overseers may be removed by *certiorari*, without appealing to the quarter sessions; and the court will go into the question upon affidavit whether or not the place be a township or vill, and if it appears that it is not, will quash the appointment: *Rex v. Standard Hill*, 4 M. & S. 378.

The immemorial severance of a township from a parish will entitle either of the remaining townships to claim an appointment of overseers under 14 Car. 2, c. 12, s. 21, though all the township be with others incorporated in a union, under 4 & 5 Will. 4, c. 76, s. 26: *Reg. v. Worcestershire JJ.*, 12 A. & E. 28; 9 L. J. M. C. 81; 3 P. & D. 465.

1 WILL. & M. SESS. 1, CHAP. 18.

AN ACT for Exempting their Majesties Protestant Subjects dissenting from the Church of England from the Penalties of certain Laws (*a*).

* * * * *

Dissenters appointed officers, and scrupling oaths, &c., may act by deputy.

V. And be it further enacted by the authority aforesaid that if any person dissenting from the Church of England as aforesaid shall hereafter be chosen or otherwise appointed to bear the office of high constable or petit constable churchwarden overseer of the poor or any other parochial or ward office and such person shall scruple to take upon him any of the said offices in regard of the oaths or any other matter or thing required by the law to be taken or done in respect of such office every such person shall and may execute such office or employment by a sufficient deputy by him to be provided that shall comply with the laws on this behalf Provided always the said deputy be allowed and approved by such person [and] persons in such manner as such officer or officers respectively should by law have been allowed and approved.

* * * * *

Teacher exempt from office.

VIII. And be it further enacted by the authority aforesaid that every teacher or preacher in holy orders or pretended holy orders that is a minister preacher or teacher of a congregation that shall take the oaths herein required and make and subscribe the declaration aforesaid and also subscribe such of the aforesaid articles of the Church of England as are required by this Act in manner aforesaid shall be thenceforth exempted from serving upon any jury or from being chosen or appointed to bear the office of churchwarden overseer of the poor or any other parochial or ward office or other office in any hundred of any shire city town parish division or wapentake.

* * * * *

(*a*) See also 52 Geo. 3, c. 155, s. 9; and 31 & 32 Vict. c. 72.

3 WILL. & M. CHAP. 11.

AN ACT for the better Explanation and supplying the Defects of the former Laws for the Settlement of the Poor (b).

Whereas one Act of parliament made in the thirteenth and fourteenth years of his late Majesty King Charles the Second intituled *An Act for the better Relief of the Poor of this Kingdom (except what relates to the corporation therein mentioned and constituted thereby)* was revived and continued with some alterations by one other Act made in the first year of the late King James the Second and have been found [by experience*] to be good and wholesome laws.

14 Car. 2,
c. 12.
1 Jac. 2, c. 17,
s. 1, recited.

II. But forasmuch as the said Acts are somewhat defective and doubtful for supplying and explaining the same, be it further provided and enacted by the authority aforesaid that the forty days continuance of such person in a parish or town intended by the said Acte to make a settlement shall be accounted from the publication of a notice in writing which he or she shall deliver of the house of his or her abode and the number of his or her family if he or she have any to the churchwarden or overseer of the poor which said notice in writing the said churchwarden or overseer of the poor is or are hereby required to read or cause to be read publicly immediately after divine service in the church or chapel of the said parish or town on the next Lords day when there shall be divine service in the same And the said churchwarden or overseer of the poor is or are hereby required to register or cause to be registered the said notice in writing in the book kept for the poors accounts (c).

The note of settlement must be read in the church, and registered in the poors book.

* * * * *

V. Provided always and be it enacted that if any person, who shall come to inhabit in any town or parish [shall for himself and on his own account execute any publick annual office or charge in the said town or parish during one whole year or (d)] shall be charged with and pay his share towards the publick taxes or levies of the said town or parish then he shall be adjudged and deemed to have a legal settlement in the same though no such notice in writing (e) be delivered and published as is hereby before required.

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paying parish duties, a settlement.

(b) Made perpetual by 12 Anne, settlement could be gained by SERVING AN OFFICE. The words in italics are repealed by 30 & 31 Vict.

[*] interlined on the roll.

(c) Repealed by 30 & 31 Vict. c. 59.

(d) See 9 & 10 Will. 3, c. 11; 9 Geo. 1, c. 7, ss. 5, 6; 35 Geo. 3, 1 & 2 Will. 4, c. 41, s. 12; 4 & 5 Will. 4, c. 76, s. 64, by which 6 Geo. 4, c. 57, s. 2; 1 Will. 4, c. 18; from and after 14 August, 1834, no and 4 & 5 Will. 4, c. 76, s. 66.

Decisions on
sect. 5.

SETTLEMENT BY SERVING AN OFFICE—THE OFFICE.

Serving the office of warden of a borough, gained a settlement: *St. Mary v. St. Lawrence, in Reading*, 10 Mod. 13; S. C. Foley, 310; Sett. & Rem. 3.

Serving the office of tithing-man gave a settlement: *Gassington v. Holy Trinity, in London*, Sett. & Rem. 72; *Burlescomb v. Sampford Peverill*, Str. 544.

Serving the office of parish clerk, though chosen by the parson, and not by the parishioners, gained a settlement: *Gatton v. Milwich*, Salk. 536; S. C. Sett. & Rem. 241; Foley, 123; Salk. 428, 523.

Serving the office of collector of land tax, gained a settlement: *Rex v. Hammond, Bott*.

Serving the office of collector of duties on births and burials, gained a settlement; for it need not be a parish office; but if it was a public annual office in the parish, it was sufficient: *Bisham v. Cook, Bott*; S. C. Foley, 124; Str. 411.

Serving the office of parish clerk, although without the licence of the ordinary, gained a settlement: *Peak v. Bourn*, Str. 942.

A certificate was avoided and settlement gained in the certificated parish by executing the office of constable for a city, which consisted of several parishes: *Rex v. St. Maurice, Winchester*, Str. 1014; Burr. S. C. 27.

Annual office must be taken strictly; but it must, at least, have a reasonable construction. It was doubted whether the office of a parish clerk gained him a settlement: *Rex v. St. Mary, Berkhamstead*, 2 Sess. Ca. 182.

A man having a tally left with him as borseholder, if he was not presented, admitted or sworn, was not legally placed in such office; hearsay evidence of his election was not sufficient: *Rex v. Wingham*, Burr. S. C. 223.

It was not necessary that the office should extend throughout all the parish, though it must have been executed for the space of one whole year: *Rex v. Fittleworth*, Burr. S. C. 238.

Serving as schoolmaster to a charity school did not confer a settlement: *Rex v. Milbourne*, 1 Wils. 87; Str. 1225; Burr. S. C. 244.

Serving the office of bailiff or ale-conner, which consisted in inspecting weights and measures and warning juries, gained a settlement: *Rex v. Whitchurch*, Burr. S. C. 365.

Serving the office of constable, though the person is sworn in, did not confer a settlement, unless he was presented at the leet: *Rex v. Winterbourn*, Burr. S. C. 520; 1 W. Bl. 452.

A person serving the office of tithing-man in place of the person presented by the court leet, although sworn, did not gain a settlement: *Rex v. Allcannings*, Burr. S. C. 634.

An appointment as curate or sequestrator, until the bishop should release the vicarage from the sequestration, was not an annual office, although the person served for three years: *Helsington v. Over*, Burr. S. C. 746.

A petty constable sworn into office, who executed it by deputy, acquired a settlement: *Rex v. Hope Mansell*, Cald. 252.

Serving the office of sexton conferred a settlement: *Rex v. Liverpool, Bott*.

Serving the office of hog-ringer to a parish into which the person was sworn at the court leet, conferred a settlement: *Rex v. Whittlesea*, 4 T. R. 867.

A settlement was gained by serving as governor of a workhouse: *Rex v. Illminster*, 1 East, 83.

SETTLEMENT BY SERVING AN OFFICE—THE OFFICE—*continued.*

A curate, officiating in a parish for above a year, under the bishop's licence to perform the office of curate at a certain annual stipend, was not such an annual office as gave a settlement: *Rex v. Wantage*, 2 East, 65. *Decisions on sect. 5.*

A master of a workhouse, who under 9 Geo. 1, c. 7, contracted for the management of the poor, did not gain a settlement thereby: *Rex v. Mer-sham*, 7 East, 167.

Where one was legally appointed borseholder and afterwards illegally discharged, in which he acquiesced, he did not gain a settlement: *Rex v. Holy Cross, Westgate*, 4 B. & Ald. 619.

The master of the workhouse in a Gilbert's union, did not gain a settlement by serving the office: *Rex v. Hambledon*, 4 B. & C. 459.

A person serving the office of clerk to a chapel situated in an extra-parochial vill might gain a settlement in the adjoining parish if he resided there, and if part of the duties of his office as clerk were exercisable within that part of the parish where he resided: *Rex v. Amlwch*, 4 B. & C. 757.

An assistant overseer elected and appointed under 59 Geo. 3, c. 12, s. 7, at an annual salary of 10*l.*, gained a settlement by serving such office for a year: *Rex v. Lew*, 8 B. & C. 655.

Where the court leet appointed a person to be street driver, and it appearing, 1, that it was not an annual office, 2, that he took no oath of office, 3, that he had not served one whole year—no settlement was gained: *Rex v. Yalding*, 3 D. & R. 352.

A tithing-man gained a settlement in the place for which he served, though not sworn, by executing there on his own account, a public annual office for one whole year: *Rex v. Corfe Mullen*, 1 B. & Ad. 211.

A person served the office of parish clerk and was paid. It did not appear how he came into office. Held, that as he was not even colourably appointed or chosen, he did not by his service as clerk execute an office within the parish so as to gain a settlement under 4 Wm. & M. c. 11, s. 6: *Rex v. Stogursey*, 1 B. & Ad. 795.

A settlement was not gained by serving the office of pinder: *Rex v. Clixby*, 4 B. & Ad. 153.

To gain a settlement by serving an office the person must have resided in the parish where it was executed: *Rex v. Woodbridge*, 4 B. & Ad. 711.

The office of organist to a chapel, appointed by the vestry, was held not to be a public annual office, by serving which a settlement could be gained: *Rex v. St. George's, Hanover Square*, 5 B. & Ad. 571.

The homage of a court baron appointed a pinder for the town of F. for a year, who executed the office accordingly for the year, residing in F. He gained no settlement in F. under 3 Wm. & M. c. 11, s. 5, though there were several instances of appointments by the homage on the rolls of the court, and though the inhabitants of F. enjoyed right of common in B.: *Rex v. St. Mary, Newmarket*, 3 A. & E. 151; 4 L. J. M. C. 89; 4 N. & M. 693.

An office to confer a settlement under 3 Wm. & M. c. 11, s. 5, must be annual in its nature: *Rex v. Middlewich*, 3 A. & E. 156; 4 L. J. M. C. 90.

Where there is a distinct appointment to the office of parish clerk, a settlement will be gained: *Rex v. Bobbing*, 5 A. & E. 682; 6 L. J. M. C. 13; 1 N. & P. 166.

The court will take notice that the offices of assessor and collector of the land and assessed taxes are public annual offices within 3 Wm. & M. c. 11, s. 5: *Reg. v. Anderson*, 9 Q. B. 663; 11 J. P. 55.

SETTLEMENT BY SERVING AN OFFICE—THE OFFICE—*continued*.

*Decisions on
sect. 5.*

A person had been appointed to the office of clerk of a district church, established under 58 Geo. 3, c. 45, and 59 Geo. 3, c. 134, by the curate thereof, and continued to act in the office for eight years, with the knowledge of the vicar of the parish of which the district formed a part, and without any attempt being made to remove him. Held, that a settlement by serving such office was gained under 3 Wm. & M. c. 11, s. 5: *Reg. v. Ossett*, 16 Q. B. 975; 20 L. J. M. C. 205; 15 J. P. 498.

SETTLEMENT BY SERVING AN OFFICE—TIME AND PLACE OF SERVING.

The office must be executed for the space of a year: *Fittleworth v. Pulborough*, Bott.; S. C. Burr. S. C. 238; 1 Wills. 81 Cald. 57, 107.

Serving the office of tithing-man for two half-years, not consecutively, where the custom was to serve no more than half a year, did not confer a settlement: *Cold Ashton v. Woodchester*, Burr. S. C. 444.

If a churchyard lay in two parishes, the sexton might gain a settlement in the one in which he resided, although no part of the church was in that parish: *Rex v. Liverpool*, 3 T. R. 118.

The appointment of one at a court leet, for a year and until he should be discharged, and who executed the office for less than the year, did not gain a settlement: *Rex v. Bow*, 8 T. R. 445.

Serving the office of clerk to a chapel in an extra-parochial vill might confer a settlement in an adjoining parish, if the person resided there, and if part of the duties of the office of clerk were exerciseable within that part of the parish where he resided: *Rex v. Amlwch*, 4 B. & C. 757.

The office of town crier was a public annual office within 3 Wm. & M. c. 11, s. 5; and if the town comprised several parishes, the settlement was gained in that parish in which the officer last resided the 40 days: *Rex v. St. Nicholas, Hereford*, 10 B. & C. 832.

SETTLEMENT BY PAYMENT OF TAXES.

The taking a house at 12*l.* per annum rent, and living in the same four months, paying Queen's taxes, but never paying any rent to the landlord, does not confer a settlement: *Case of St. Catherine and St. George*, 2 Ld. Raym. 1474.

If one who was rated, let part of his land to another who paid a proportion of the rate; such other did not gain a settlement: *Solontongham v. Worplesdon*, Foley, 128.

To gain a settlement by payment of taxes, the person must have been assessed as well as have paid: *Kinfare v. Kingswinford*, Foley, 129.

A tide-waiter assessed and paying for his salary to the land tax, gained a settlement, although repaid by the collector: *Rex v. Oakhampton*, Burr. S. C. 5.

Being charged with and making two quarterly payments to the land tax only, will not give a settlement: *Rex v. Bramley*, Burr. S. C. 75.

A tenant must be rated as well as pay, in order to gain a settlement: *Rex v. Sarratt*, Burr. S. C. 75; *Rex v. Lower Walton*, *ib.* 100; *Rex v. Stanlake*, *ib.* 627; *Rex v. Warblington*, *ib.* 787; *Rex v. Carshalton*, *ib.* 809; *Rex v. St. Cuthbert's, Bedford*, *ib.* 817.

A tenant may gain a settlement by being charged disjunctively with his landlord, and paying the land tax, poor rate, &c.: *Rex v. Painswich*, Burr. S. C. 465.

SETTLEMENT BY PAYMENT OF TAXES—*continued.*

A tenant might gain a settlement by being assessed to and paying land tax, although it was allowed again by his landlord: *Decisions on* *Rex v. Chidingfold*, *sect. 5.* Burr. S. C. 415; *Rex v. Fulham*, *ib.* 488.

A tenant might gain a settlement by being rated to and paying the poor ley, &c., although paid for and repaid by his landlord: *Rex v. Openshaw*, Burr. S. C. 522; 1 W. Bl. 463.

Contributing to the support of the poor without being properly rated, did not gain a settlement: *Rex v. Friendsbury*, Burr. S. C. 644.

A son, living with his mother as part of her family, gained a settlement by being rated and paying the poor rate, &c., as occupier of his mother's land: *Rex v. Stapleton*, Burr. S. C. 649.

Paying the land tax under circumstances which implied an assessment, gained a settlement: *Rex v. Issey*, Burr. S. C. 826.

If the form of the rate showed that the parish had notice of the person rated, he need not have been rated by name to gain a settlement: *Rex v. Walsall*, Cald. 35.

Where both landlord and tenant are named, and neither expressly rated to the land tax, but the tenant paid, the tenant acquired a settlement. Where a rate is upon "inhabitants," the word imports "occupiers:" *Rex v. Mitcham*, Cald. 276.

A person entitled as one of the representatives of an intestate to part of a leasehold estate occupied by a tenant, and in the actual enjoyment of his proportion of the rent, did not by paying upon demand by the overseer, a poor rate made upon the occupier, acquire a settlement: *Rex v. Chew Magna*, Cald. 365.

A person who actually paid, but was not rated to the land tax, did not gain a settlement: *Rex v. St. John, Southwark*, 1 Doug. 225.

If the name of a former occupier, who to the knowledge of the parish officers was dead, was continued in the poor rate, but the then present occupier paid the rate, he gained a settlement: *Rex v. Heckmondwick*, 2 Doug. 564; Cald. 103.

Where the title of the rate was so much in the pound, and the pauper's name was inserted in it, and also his yearly rent, though nothing was written against his name in the column for sums assessed, that was a sufficient rating for the purpose of gaining a settlement: *Rex v. Corhampton*, 2 Doug. 621; Cald. 108.

Where a farm was rated, and the landlord paid the rate, and was allowed it by the tenant, the latter did not gain a settlement, it being stated that the overseer did not know that the tenant resided there: *Rex v. Llangam-march*, 2 T. R. 628.

Where a pauper was rated, and absconded, and a friend gave the collector a guinea, who thereout received the tax, this was held payment of the rate by the pauper: *Rex v. Bridgwater*, 3 T. R. 550; but see *Reg. v. Benge-worth*, post, page 137.

In Norwich, where the parishes are united under a local Act, a person by residing in one parish in Norwich, and by being rated in another, did not gain a settlement in either: *Rex v. St. Michael at Thorn, Norwich*, 6 T. R. 536.

A person paying the rate, whose name was afterwards added in the overseer's book, did not thereby gain a settlement: *Rex v. Edgbaston*, 6 T. R. 540.

A settlement, by being rated and paying rates, could not be proved by evidence of paying only without the production of the rate or accounting

SETTLEMENT BY PAYMENT OF TAXES—*continued.*

*Decisions on
sect. 5.*

reasonably for the non-production of it; even although the payer was owner and occupier of the estate: *Rex v. Coppull*, 2 East, 25.

An exciseman who was rated for his salary, and the rate was paid by the collector without any deduction from the salary, did not thereby gain a settlement: *Rex v. Weobly*, 2 East, 68.

A custom-house officer, who was rated for his salary towards the land tax, and paid the rate himself, though the money was either given to him beforehand or allowed to him afterwards by the collector, gained a settlement: *Rex v. Armouth*, 8 East, 383.

Payment by one who was assessed to a church rate upon householders only, and not upon the parishioners at large, thereby gained a settlement; for it was not less a public tax because laid too narrowly, and it was charged and paid within the parish which was all that was required by 3 Wm. & M., c. 11, s. 5: *Rex v. St. Bees*, 9 East, 203.

A settlement might be gained by being rated and paying parochial taxes in respect of a tenement above the annual value of 10*l.*: *Rex v. St. Pancras*, 2 B. & C. 122.

Being charged with and paying parochial taxes did not before 6 Geo. 4, c. 57, s. 2, confer any settlement until the person charged with and paying the taxes had resided within the parish 40 days after he had been so charged: *Rex v. Ringstead*, 7 B. & C. 607.

A person did not gain a settlement by reason of his having been assessed to and paid the watch rate in the city of London: *Rex v. Christchurch, London*, 8 B. & C. 660.

An attorney having premises near his residence, allowed his clerk to occupy them as part of his remuneration. The clerk was rated, and the rates were reimbursed to him by his employer; held, that he gained a settlement by paying public parochial taxes: *Rex v. Lower Heyford*, 1 B. & Ad. 75.

A statement in grounds of appeal that the pauper became tenant of a house, &c., occupied it for seven months and "paid" parochial rates or taxes in respect of such house, does not show a settlement by being charged with and paying public taxes, &c. within 3 Wm. & M. c. 11, s. 5: *Reg. v. St. Olave's, Southwark*, 5 Q. B. 912; 8 J. P. 759.

Where pauper's name was in the rate book as occupier, but when the rate was demanded he referred the overseer to his landlord, who paid it, this was not such a payment of the rates as satisfied either, 3 Wm. & M. c. 11, s. 5; or 4 & 5 Will. 4, c. 76, s. 66; and no settlement was gained thereby: *Reg. v. South Kelvington*, 13 L. J. M. C. 3.

A person entering into the occupation of a house at Midsummer, and paying the subsequent half-year's poor rate due at Christmas, gained a settlement under 3 Wm. & M. c. 11, s. 5, although the name of the tenant whom he succeeded, and not his name, appeared on the rate books as the occupier of the house: *Reg. v. St. Marylebone*, 15 Q. B. 399; 19 L. J. M. C. 201; 14 J. P. 559.

A separate and distinct dwelling-house and land in the parish of H. were let to W. A. and T. A., as joint tenants, the rent and value of the land, taken separately, being sufficient to confer a settlement on both. The farm was occupied by W., T. residing on another farm at a distance. T. paid the whole rent of the farm. The overseers of H. had always demanded and received payment of the rates in respect of the house and farm in question from T.; and, in the rate-books of H., "Atkinson, Mr." appeared as the name of the occupier of the farm in two rates, and "Atkinson, Thomas," in a third; held, that W. A. had been sufficiently charged with and paid his share of the public taxes of H. to gain a settlement under 3 Wm. & M. c. 11, s. 5: *Reg. v. Hushwaite*, 18 Q. B. 447; 21 L. J. M. C. 189; 16 J. P. 696.

SETTLEMENT BY PAYMENT OF TAXES—*continued.*

Upon an appeal raising the question whether there was a settlement by *Decisions on* payment of rates, the pauper's wife proved that the rates had been paid. *sect. 5.* The appellants called the pauper, who said he had no recollection of paying any rates, and if they were paid they must have been paid for him by his wife's father, as he had not himself the means of doing so. The sessions on this evidence found that the rates were paid by the pauper's father-in-law for the pauper, but without any authority from him, and confirmed the order; but the court held that the sessions were wrong: *Reg. v. Bengeworth*, 3 E. & B. 637; 23 L. J. M. C. 124; 18 J. P. 471; overruling *Reg. v. Bridgwater*, 3 T. R. 550, *ante*, page 135.

Where the landlord of a tenement under 30*l.* yearly value, occupied by R., was assessed to the poor rate under a local Act, rendering it obligatory on the parish officers to rate the landlord in such cases; but R. having claimed to be rated under 2 Will. 4, c. 45, s. 30, his name was accordingly inserted, together with that of his landlord, in the rate; and he paid the rate: this was held to confer a settlement by rating: *Reg. v. St. Giles-in-the-Fields*, 26 L. J. M. C. 55; 6 E. & B. 205; 21 J. P. 564; 3 Jur. (N. s.) 291; 28 L. T. 250.

Under 3 Wm. & M. c. 11, s. 5, and 6 Geo. 4, c. 57, s. 2, a settlement cannot be gained by payment of parochial taxes for a tenement not being the property of the person paying, without an occupation of the tenement by him for a year: *Reg. v. Westbury-on-Trym*, 7 E. & B. 444; 26 L. J. Q. B. 186; 3 Jur. (N. s.) 690.

A man and his wife lived apart, and the wife acquired by devise a house in the parish where she lived as occupier thereof, being rated in her married name. The husband after some months joined the wife, and while living with her she paid a rate. Soon afterwards he left and never returned, the wife being still rated and paying rates in her own name. The parish officers had no knowledge of or dealings with the husband as a ratepayer; held, that the husband did not obtain a settlement, as the parish officers did not know of his existence, or treat him as virtually rated: *Reg. v. St. Anne, Westminster*, 29 L. J. M. C. 78; 2 E. & E. 485; 6 Jur. (N. s.) 249; *S. C. St. Anne, Westminster v. Birmingham*, 24 J. P., n., 68, 485, and *Birmingham v. St. Anne's, Westminster*, 1 L. T. (N. s.) 367.

A pauper was charged with a year's poor rate, but, removing during the current year, he paid only part of it to the overseers: held, this was not a ground of settlement within 3 Wm. & M. c. 11, s. 5: held, further, that payment of a watch rate made under 5 & 6 Will. 4, c. 76, upon a parish within the borough, was a payment of a public tax or levy, and gave a settlement: held, further, payment of one of several distinct and independent taxes is sufficient to give a settlement: *Reg. v. Everton*, 29 L. J. M. C. 165; *S. C. Everton v. South Stoneham*, 2 L. T. (N. s.) 231; 6 Jur. (N. s.) 606; 24 J. P., n., 307, 692; 2 E. & E. 771.

By the practice of the Wesleyan congregation, certain persons are appointed stewards for a given circuit, and are called circuit stewards. It is their duty to take houses as residences for the ministers officiating within the circuit. If the rent and rates due in respect of such houses are paid by the minister, the amount is repaid to him by the circuit stewards. It is the custom to appoint a minister to officiate in a given place for one year certain, and to remove him after a lapse of three years. A minister who resides in a house so taken by the circuit stewards does not gain a settlement by renting a tenement, or by payment of rates and taxes, although he has been assessed to and has paid the poor rates in respect of the house so occupied by him: *Reg. v. Tiverton*, 3 L. T. (N. s.) 696; 30 L. J. M. C. 79; *S. C. Tiverton, app., Mangotsfield, resp.*, 7 Jur. (N. s.) 209.

Payment of property tax under 5 & 6 Vict. c. 35, s. 60, Sch. (A.), coupled with the other statutory requisites, confers a settlement, as well as payment

Service for a year, of person without wife or child, a settlement.

VI. *And it is hereby further enacted that if any unmarried person not having child or children, shall be lawfully hired (g) into any parish or town for one year such service shall be adjudged and deemed a good settlement therein, though no such notice in writing (h) be delivered and published as is hereinbefore required (i).*

(g) See 8 & 9 Will. 3, c. 30, 13 Geo. 2, c. 29, s. 7; 9 Geo. 3, s. 4; and 4 & 5. Will. 4, c. 76, ss. c. 31, s. 8; 52 Geo. 3, c. 72, s. 8; 64, 65. 56 Geo. 3, c. 139, s. 9.

(h) See sect. 3, repealed.

(i) See 12 Anne, st. 1, c. 18, s. 2; repealed by 30 & 31 Vict. c. 59.

SETTLEMENT BY PAYMENT OF TAXES—continued.

Decisions on
sect. 5.

of land tax: *St George, Hanover Square*, app., *Cambridge Union*, resp., 8 B. & S. 764; 37 L. J. M. C. 17; 32 J. P. 358; L. R. 3 Q. B. 1; 17 L. T. (N. S.) 142.

Paying a share of rates under a local Act by a man who rented a sufficient tenement, created a settlement by the payment of public taxes or levies of the parish within 3 Wm. & M. c. 11, s. 5: *Exeter v. St. Thomas*, 22 L. T. (N. S.) 379.

Improvement and lamp rates are public taxes or levies within the meaning of 3 Wm. & M. c. 11, s. 5: *Reg. v. St. Thomas*, 39 L. J. M. C. 83.

SETTLEMENT BY HIRING AND SERVICE—WHO MAY BE HIRED.

Decisions on
sect. 6.

A widower might gain a settlement by hiring and service, although he had children living, provided they had gained settlements in their own right: *Anthony v. Cardigan*, Fort. 309; S. C. Foley, 131; Sett. & Rem. 5.

A daughter, who was emancipated, might be hired as a yearly servant by her father, and so acquire a settlement: *Missenden v. Chesham*, Bott; S. C. Foley, 142.

The son of a certificate man, born after the certificate, was incapable of gaining a settlement by hiring and service in the certificate parish: *Rex v. Sherborne*, Burr. S. C. 182; Str. 1165; 2 Sess. Ca. 383.

If a married man agreed conditionally to become a servant of another, and between that time and the performance of the condition his wife died without issue, he was an unmarried person at the time of the completion of the hiring: *Rex v. Bank-Newton*, Burr. S. C. 455.

A groom might gain a settlement by hiring and service in a place where his master had neither house nor estate: *Rex v. East Ilsley*, Burr. S. C. 722.

A wife, whose husband was abroad, might gain a settlement by a hiring before his death, and a continued service under the hiring for a year after his death, although his death was not known until after the year commenced: *Rex v. Hensingham*, Cald. 206.

If a servant was unmarried at the time when he was hired for a year, he gained a settlement by a year's service, though he married before the service commenced: *Rex v. Allendale*, 3 T. R. 382; S. P. *Rex v. Stannington*, 3 T. R. 385.

The son of a certificated person serving under a hiring for a year in an extra-parochial place did not gain a settlement; and therefore he could not

SETTLEMENT BY HIRING AND SERVICE—WHO MAY BE HIRED—*con.*

be hired as a servant in the certificate parish so as to gain a settlement there: *Rex v. Collingbourn Ducis*, 4 T. R. 199. *Decisions on sect. 6.*

A widower having a son who had no settlement of his own, could not hire himself as a servant so as to gain a settlement thereby: *Rex v. New Forest*, 5 T. R. 478.

A deserter from the Marines could not gain a settlement by hiring and service, not being *sui juris*, nor competent lawfully to hire himself within 3 Wm. & M. c. 11, s. 6: *Rex v. Norton-juxta-Kempsey*, 9 East, 206.

A soldier on furlough could not acquire a settlement by hiring and service: *Rex v. Beaulieu*, 3 M. & S. 229.

An infant might gain a settlement by hiring and service with his father: *Rex v. Chillesford*; *Rex v. Winslow*, 4 B. & C. 94.

A militia-man could not lawfully hire himself for a year, so as to gain a settlement: *Rex v. Holsworthy*, 6 B. & C. 283; S. P. *Rex v. Taunton St. James*, 9 B. & C. 831.

Where a militia-man hired himself for a year, but told his master at the time that he was a militia-man, he gained a settlement: *Rex v. Elmey Castle*, 3 B. & Ad. 826.

A militia-man was held to have gained a settlement by hiring and service to his colonel, the fact of his being a militia-man having been known to the master at the time of the hiring: *Rex v. St. Mary-at-the-Walls, Colchester*, 5 B. & Ad. 1023.

A settlement could not be gained by hiring and service if the servant at the time of hiring was a member of a volunteer corps, and had not at his hiring mentioned the fact to the master: *Rex v. Witnesham*, 2 A. & E. 648.

Examination stated that the pauper was 18 years old and unmarried at the time of hiring, but not that he was at that time "without child or children." This was insufficient to satisfy 3 Wm. & M. c. 11, s. 6: *Reg. v. Sherbourne*, 2 Q. B. 545.

Grounds of appeal, stating a settlement by the pauper by hiring and service, but not that when hired he was unmarried, and without child or children, were insufficient, although it appeared that the pauper when hired was only 11 years of age: *Reg. v. Recorder of Leeds*, 2 Q. B. 547.

The examination must show that the pauper was unmarried at the time of the contract of hiring: *Reg. v. St. Paul, Covent Garden*, 5 Q. B. 669.

SETTLEMENT BY HIRING AND SERVICE—CONTRACT OF HIRING.

A boy put out by a master to a barber for a year to learn to shave, did not gain a settlement; for every hiring must be reciprocal: *Rex v. Walton*, Carth. 400; S. C. Fort. 214; Comb. 445; 5 Mod. 828.

A hiring made in an extra-parochial place, was sufficient: *Rex v. St. Peter's, Oxford*, Fol. 193.

A hiring could not be intended where no contract appeared: *Gregory-Stoke v. Pitminster*, Bott.; S. C. 2 Sess. Ca. 120.

Two several hirings for a year, and service for a year, are not sufficient to gain a settlement: *Dentford v. Ridgwick*, Salk. 535.

Hiring for a year is necessary to gain a settlement: *Rex v. Burnham*, Burr. S. C. 87.

A girl who resided with a relation in one parish, but worked in another, with a master in the business of burling cloth by a weekly hiring, was not a hired servant that could gain a settlement: *Rex v. Wrington*, Burr. S. C. 280.

A hiring for a year could not be inferred from a boy's being taken into a family, supplied with board and lodging, and made to run errands, unless some contract appeared: *Rex v. Weyhill*, Burr. S. C. 491; 1 W. Bl. 206.

*Decisions on
sect. 6.*

SETTLEMENT BY HIRING AND SERVICE—CONTRACT OF HIRING—*con.*

A negro slave brought into England by his owner or proprietor, did not gain a settlement by service with him in England; for there was no contract for such a purpose subsisting between them: *Rex v. Thames Ditton, Bott.*; S. C. Cald. 516.

A boy, living several years with his uncle, and working at his trade for his board, lodging and clothes, but without any contract, did not gain a settlement: *Rex v. St. Mary, Guildford, Bott.*; S. C. Cald. 521.

A hiring three days after Michaelmas, till the Michaelmas following in leap year, together with a service till the day after Michaelmas Day, making 365 days, did not give a settlement: *Rex v. Ackley*, 3 T. R. 250.

A man went to an inn with the knowledge of his master, to assist the waiter, who was ill, and continued there boarding and lodging nineteen months, and after the waiter left continued as before,—he did not gain a settlement: *Rex v. St. Matthew, Ipswich*, 3 T. R. 449.

A settlement might be gained by serving a year under different hirings, if one of them was for a year, though there were not forty days' service under the yearly hiring: *Rex v. Adson*, 5 T. R. 98.

A man, who having lived with an uncle, was hired as a yearly servant by another person, but returned upon a promise of the uncle that if he would come and live with him as before he would do certain things for his advantage, and accordingly served his uncle for several years, but received no wages, did not gain a settlement as there was no contract of hiring: *Rex v. Stokesley*, 6 T. R. 757.

Where nothing was said in a contract of hiring about time but a reservation of weekly wages, it was a weekly hiring only, and no settlement was gained: *Rex v. Pucklechurch*, 5 East, 382.

A pauper, placed by the parish with a parishioner who received money for his board, &c., the pauper working for him as he could, did not constitute the relation of master and servant—therefore, no settlement was gained—it made no difference if the payment by the parish was afterwards discontinued, and the pauper continued with the parishioner as before: *Rex v. Rickinghall*, 7 East, 373.

A poor boy allotted to a parishioner of S., who handed him over to another of C., with whom he continued a year, did not gain a settlement in C.: *Rex v. Stowmarket*, 9 East, 211.

No settlement could be gained by serving under a contract of hiring for four years, with liberty for the servant to leave for a week every year to see his friends, for there was no complete year of hiring: *Rex v. Rushulme*, 10 East, 325.

Under a hiring and service for a year the servant gained a settlement, though by the practice of the manufactory when he finished his week's work, and on Sundays he might go where he pleased without asking leave; for it is an express contract for a year, without an express exception: *Rex v. Horwick*, 10 East, 489.

An unmarried man agreed on 17th Oct., 1803, to serve for the year at weekly wages, which he received till 13th Oct., 1804; three or four days before which (having in the meantime married), he agreed with his master to serve him for another year at increased weekly wages, which commenced on the 20th Oct., and served more than a year afterwards. He gained a settlement: *Rex v. Overnorton*, 15 East, 347.

Where a poor boy of A. agreed with a parishioner of B., to go home with him, and do whatever he was bidden, (nothing being said about wages or time, and no subsequent agreement being made), he gained a settlement by a year's service in B., although the overseer of A., a day or two after the agreement undertook with his master to find the boy in clothes, for which the master was to pay a certain sum per annum: *Rex v. Dunton*, 15 East, 352.

SETTLEMENT BY HIRING AND SERVICE—CONTRACT OF HIRING—*con.*

Where the father of the pauper contracted with J. S., that his son should be with him, and should work with him for two years and have what he got, and should allow 2s. per week out of his gains to J. S., 1s. for teaching him, 9d. for rent of a knitting frame, and 3d. for the standing, it was held that this was a contract of hiring and service, and not an apprenticeship; and that the son's having served under it, was evidence that he had adopted the contract made by his father, and, therefore, he had a settlement by hiring and service: *Rex v. Burbach*, 1 M. & S. 370. *Decisions on sect. 6.*

A hiring, short of a year, the full year's wages being paid, and the pauper leaving the service, gave no settlement: *Rex v. Little Coggeshall*, 6 M. & S. 264.

A hiring on 13th Oct., 1807, to serve till 11th Oct. following, and service until that day, was held not to confer a settlement, though 1808 was leap year: *Rex v. Worminghall*, 6 M. & S. 350.

Where by a parish contract, the master agreed to teach the pauper to make stockings during the year, for which he was to receive 2l. 2s., and the pauper was to have his earnings, paying his master for the use of the frame, &c., and the pauper continued in the service a year and a half; no settlement was gained: *Rex v. Bilborough*, 1 B. & Ald. 115.

Where a female natural child was hired for a year by the wife of its reputed father, and continued doing the household work for three years, but after the first year no wages were paid, nor any new contract of hiring; the child was held not to continue on the terms of the original hiring, and therefore no settlement: *Rex v. Sow*, 1 B. & Ald. 178.

To make a valid contract of hiring and service, it is not absolutely necessary that the contract when by deed should be executed by the master; it is sufficient if he accept the services on the terms of the deed: *Rex v. Houghton-le-Spring*, 2 B. & Ald. 375.

A week after the hiring the mistress said "I have hired you, but mentioned no time; remember that you are hired for 51 weeks," to which the servant assented; this was a good hiring for a year, conferring a settlement: *Rex v. Market Bosworth*, 2 B. & C. 757.

Where a pauper served under a yearly contract in A., and was again hired in the same parish by the same master for a less period than a year (there being no interruption of the service), and during the latter period removed with his master into B., and served him there; held, that he did not acquire a settlement in B. inasmuch as no part of his service there was under a yearly hiring: *Rex v. Abethorpe*, 2 B. & C. 892.

A. B. at 10 years of age went to C. D. for meat and clothes as long as he had a mind to stop. He was to do what he could and what he was bid. He remained two years. This was not a yearly hiring, and therefore no settlement was gained: *Rex v. Christ's Parish, York*, 3 B. & C. 459.

Whether or not there was a dispensation with the service at any period of the year is a question of fact for the sessions to determine: *Rex v. Bottesford*, 4 B. & C. 84.

A hiring at 6s. a week for the winter, and 9s. a week for the summer, nothing being said as to the duration of the service, was not a hiring for a year: *Rex v. Warminster*, 6 B. & C. 77.

An enrolled militia-man hired himself for a year, and served for a year under the contract; but as it did not appear that at the time of hiring he informed the master that he was a militia-man, no settlement was gained by serving a year under the contract: *Rex v. Holsworthy*, 6 B. & C. 283.

A stipulation that the master or servant might determine the contract when they pleased must be taken as part of the contract, and under such a contract there was no general or yearly hiring, and consequently no settlement acquired: *Rex v. Great Bowden*, 7 B. & C. 249.

A settlement might be gained under 3 Wm. & M. c. 11, s. 6, although

SETTLEMENT BY HIRING AND SERVICE—CONTRACT OF HIRING—*con.*

*Decisions on
sect. 6.*

the hiring was not to a private person, but to the authorities of a military college: *Rex v. Sandhurst*, 7 B. & C. 557.

Notwithstanding 29 Car. 2, c. 7, s. 5, a contract of hiring made on a Sunday between a farmer and a labourer for a year was valid, and a service under it conferred a settlement: *Rex v. Whitnash*, 7 B. & C. 596.

Where there was a stipulation in an agreement that the servant should observe and obey all the rules and regulations of the factory, as well with regard to the hours of attendance and of work as the mode and other particulars of working; and the servant was told that she must work 12 hours a day, but the rules were occasionally varied by the master: held, that this was not an exception in the contract of hiring, and a settlement was gained under it: *Rex v. St. John's, Devizes*, 9 B. & C. 896.

Pauper was hired for a year at wages of 4s. 6d. per week, to work from 6 in the morning till 7 in the evening, with liberty to make such over-work as he pleased, this was an exceptive hiring, and no settlement was gained: *Rex v. Bingham*, 9 B. & C. 925.

A hiring from 13th May 1819, to 13th May 1820, (being leap year), and a service under it till the 12th May, 1820=365 days, was not sufficient to gain a settlement, for the service must have been for a whole year though it consisted of 366 days: *Rex v. Rowby*, 10 B. & C. 51.

Pauper hired himself for a year at 5l. wages to his aunt, who occupied 6 acres of land; when she had no work for him he was to work for any one else for his own benefit. This was an exceptive hiring, and gave no settlement: *Rex v. South Killingholme*, 10 B. & C. 802.

A servant hired for a year was sent to prison, and her mistress telling her to come back when she was let out, was a dispensation with the service during the imprisonment, and a settlement was gained: *Rex v. Coningsby*, 4 B. & Ad. 156.

A person hired as a footman afterwards served his master at Berbice; and it was held that there was no dissolution of the first contract, and having served 40 days under the hiring as footman, a settlement was gained: *Rex v. Buckingham*, 5 B. & Ad. 953.

An appointment as turnkey of a prison, and discharge of the duties under the regulations of the prison, at a yearly salary, did not constitute a hiring and service by which a settlement could be gained: *Rex v. Sparsholt*, 4 A. & E. 491; 5 L. J. M. C. 47; 6 N. & M. 8.

An appellant parish gave notice of appeal, stating as the ground, pursuant to 4 & 5 Will. 4, c. 76, s. 81, that pauper at his hiring stipulated to have two days' holiday at Spalding club feast, and had such holidays during his year of service. On hearing the appeal, pauper proved on cross-examination, that at his hiring he bargained for one day's holiday to go to Holbeach fair, and had it during the year; but that he did not bargain for or have any holiday at Spalding club feast. The sessions found an exceptive hiring; and the court held that under the notice given, such evidence could not be received, and the order founded upon it was quashed: *Rex v. Holbeach*, 5 A. & E. 685; 1 N. & P. 137.

Pauper served for a year continuously under two successive contracts, the first a hiring for less than a year, the second a yearly hiring. After she had so served for a year, and before the term of the yearly hiring had expired, the 4 & 5 Will. 4, c. 76 passed: held, that no settlement was gained under ss. 64, 65: *Rex v. Rettendon*, 6 A. & E. 296; 6 L. J. M. C. 77; 1 N. & P. 448.

Service under hiring for a year, during which 4 & 5 Will. 4, c. 76 passed cannot be united with a previous service for the purpose of conferring a

SETTLEMENT BY HIRING AND SERVICE—CONTRACT OF HIRING—*con.*

settlement; though a year of service was completed before the passing of the Act: *Reg. v. St. John the Evangelist*, 6 A. & E. 300, *n.* *Decisions on sect. 6.*

Under 3 Wm. & M., c. 11, s. 6, and 8 & 9 Will. 3, c. 30, s. 4, a settlement was gained by hiring and service for a year, under two contracts of hiring for two successive half years, though the contracts were made at different times, provided both were made before the commencement of the first half year: *Reg. v. Ravenstonedale*, 12 A. & E. 73; 9 L. J. M. C. 76; 3 P. & D. 469.

Agreement whereby B. hired himself to A., and A. agreed to teach B., to make him a competent workman: held that a settlement by hiring and service might be gained under it: *Reg. v. Northowram*, 9 Q. B. 24; 15 L. J. M. C. 149; 11 J. P. 4.

The usage in the county of Chester is, for servants who are hired for a year, to begin their service on the 2nd January, and end it on the 26th December; the object being, that the servants should have the Christmas holidays—to themselves. To prove a settlement by hiring and service, evidence was given of a hiring for a year in that county, and service commencing on the 2nd January, for a whole year, except the days from the 26th December to the 2nd January. The sessions found the custom to be as alleged:—held, that the master must be taken to have dispensed with the services of the pauper for the period from the 26th December to 2nd January, and that a settlement was acquired: *Reg. v. Twenlow*, 20 J. P. 645; 27 L. T. 65.

SETTLEMENT BY HIRING AND SERVICE—GENERAL HIRING.

A boy who went into service without any express hiring, and whose master told him that if he stayed a year he would give him a livery and wages, this was held to be an implied general hiring for a year: *Wandsworth v. Putney, Bott.*; S. C. 2 Sess. Ca. 188.

A general hiring was construed to be a hiring for a year: *Rex v. Wincanton*, Burr. S. C. 299.

A master asked the pauper if he liked the life of a keeper, and being answered in the affirmative, said, then go into Hill's (the previous keeper) place, and you shall want no encouragement. This was a general hiring, and a service under it for a year gained a settlement: *Rex v. Berwick, St. John*, Burr. S. C. 502.

An agreement to live in the house of a father-in-law, and to work for him at the rate of a penny a gross of buttons, deducting 5s. a week for board and lodging was not a general hiring for a year conferring a settlement: *Rex v. St. Peter's, in Dorchester*, Burr. S. C. 513; S. C. W. Bl. 443.

A hiring at 6s. a week, board, lodging and washing, summer and winter, was not a general hiring for a year; for the contract might be determined by the master or servant before the year expired: *Rex v. Dedham*, Burr. S. C. 653.

A hiring at 2s. 6d. per week, to part on a fortnight's or a month's notice, with a service under it of seven years, the wages being paid weekly, fortnightly, or monthly, was not such a general hiring as would confer a settlement: *Rex v. Bradninch*, Burr. S. C. 662.

If a boy was hired, but no term for which he was to serve was mentioned, and he was found in board and lodging, but received no wages, this was a general hiring: *Rex v. Stockbridge*, Burr. S. C. 759.

A hiring at 8s. a month, with liberty to let himself out in harvest time, and depart at a month's wages or a month's warning, was not a general

SETTLEMENT BY HIRING AND SERVICE—GENERAL HIRING—*con.*

*Decisions on
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hiring for a year, but a special hiring by the month: *Rex v. Clare*, 819.

A general indefinite hiring to serve for board and lodging, and to receive perquisites instead of wages, is a hiring for a year, though both master and servant might think themselves at liberty to part when they pleased: *Rex v. Bath Easton*, Burr. S. C. 823.

A general hiring at weekly wages is a hiring for a year: *Rex v. Seaton and Beer*, Bott.; S. C. Cald. 440.

A hiring at weekly wages for so long a time as the hirer might want a servant, was not a general hiring for a year: *Rex v. Elslach*, Bott.; S. C. Cald. 480.

An agreement by a daughter to live with her father, and do the offices of a servant for a year, for her board and lodging and perquisites, was a good hiring for a year, though the daughter was at liberty to earn what she could by her labour: *Rex v. Chertsey*, 2 T. R. 37.

If a servant was hired for eleven months at 10*l.* 10*s.*, and at the expiration of that time the master told him that he might stay on, without mentioning wages, and the servant assented, this second agreement was a general hiring: *Rex v. Macclesfield*, 3 T. R. 76.

A hiring to serve at 2*s.* 6*d.* a week, with liberty of parting on a month's notice, was a general hiring: *Rex v. Hampreston*, 5 T. R. 205.

If a person met a servant in place, and asked her whether her master had hired her again, and upon her replying in the negative, told her to come and live with him and take care of his child, this was a general hiring: *Rex v. Worfield*, 5 T. R. 506.

A hiring at weekly wages, either party to be at liberty to part at a month's notice, was a yearly hiring, though the pauper let himself by the week, and it being only agreed at the time that he should have weekly wages: *Rex v. Great Yarmouth*, 5 M. & S. 114.

A clerk in a mercantile house, hired by the year, but serving only during the usual hours of business, thereby gained a settlement, although these hours did not by the custom of the trade ever occupy the whole day, and he went where he pleased without asking his master's leave, when those hours were over: *Rex v. All Saints, Worcester*, 1 B. & Ald. 322.

A hiring at so much per week, a month's wages or a month's warning, is a hiring for a year: *Rex v. St. Andrew, Pershore*, 8 B. & C. 679.

A person was hired for a term less than a year, ending old Michaelmas, 1825. Upon and for a few days after that day he continued to live and work for his master as before, but without any new agreement; the master then paid the wages to the father of the servant, and asked if he and his son chose to go on with him. To this the father consented, and they went on till Lady-day, 1826. Held, that the hiring after Michaelmas, 1825, was not a general hiring, and no settlement was gained: *Rex v. Ardington*, 1 A. & E. 260; 3 N. & M. 304.

SETTLEMENT BY HIRING AND SERVICE—SPECIAL HIRING.

A hiring for a year, to be paid according to the work done, was a good hiring: *Rex v. Kings Norton*, Burr. S. C. 152.

A hiring for 11 months, at so much a year, the servant to give in a month's service beyond the 11, was a hiring for a year: *Rex v. Milwich*, Burr. S. C. 438.

A hiring from Michaelmas to Michaelmas, at so much wages, with liberty to the servant to let himself out during the harvest month, was a hiring for 11 months only, though the servant lodged with his master during the whole year: *Rex v. Bishop's Hatfield*, Burr. S. C. 439; Cald. 80, 95.

SETTLEMENT BY HIRING AND SERVICE—SPECIAL SERVICE—*con.*

A hiring for the term of three years, at 6*d.* a week for the first year, 9*d.* a week for the second, and 13*d.* a week for the third, to work only eleven hours a day, and to have the rest and Sundays at the servant's own disposal, was a mere contract from week to week, and not a yearly hiring: *Rex v. Macclesfield*, Burr. S. C. 458; Cald. 369. *Decisions on sect. 6.*

If a servant hired himself to learn a trade, though no wages were to be paid, yet if there was a hiring for that purpose for a year, a service under it gained a settlement: *Rex v. Hitcham*, Burr. S. C. 489.

A hiring to serve a year, working at the "stamps" in Cornwall, although the servant claimed and exercised the privilege, according to the custom of tinners, of having every Sunday a holiday to himself, it was a good hiring for a year, such claim not being part of the original contract: *Rex v. St. Agnes*, Burr. S. S. 671.

A hiring for five years to serve as a shearmen, with an exception to work only shearmen's hours, was not a hiring for a year: *Rex v. Buckland Denham*, Burr. S. C. 694; Cald. 369.

A hiring to serve for a year, although accompanied by an agreement to be absent for a month on the duty of a militia-man, and to find a person to serve instead, or to make a deduction for the time from his wages in case he was called out, was a hiring for a year: *Rex v. Westerleigh*, Burr. S. C. 753.

A hiring from H. fair to H. fair next following, being one year, at wages, with liberty to be absent 11 or 12 days during sheep-shearing season, was not sufficient to gain a settlement: *Rex v. Empingham*, Burr. S. C. 791.

A hiring for the year, to work by the piece, with an implied liberty from the usage of the place, to be absent when the servant pleased, but not to work for any other master, gained a settlement: *Rex v. Birmingham*, Doug. 333.

A militia-man, being hired for a year, with an express exception that he should be absent on duty for the month, and in lieu thereof serve a month over the year, gained a settlement, without serving the additional month: *Rex v. Winchcombe*, Doug. 391; Cald. 94.

An agreement for a year to teach a trade, the servant to find himself in necessities, and the master to have half his earnings, if he was not retained *eo nomine* as an apprentice, was a sufficient hiring to gain a settlement: *Rex v. Little Bolton*, Cald. 367.

Under a common hiring for a year, an agreement in the middle of the year that the servant should work by the piece, did not prevent a settlement: *Rex v. Alton*, Bott.; S. C. Cald. 424.

A hiring at so much a week is not an implied hiring for a year: *Rex v. Newton Toney*, 2 T. R. 453.

Service under a hiring for seven years, to work only 13 hours in the day (and Sundays excepted), did not give a settlement: *Rex v. Kingswinford*, 4 T. R. 219.

Service for a year under a hiring, "at 3*s.* per week for the year round," with liberty to go on a fortnight's notice, gained a settlement: *Rex v. Birdbrooke*, 4 T. R. 245.

A service under a hiring for five years as a colt shearmen, to work 12 hours each day, did not gain a settlement: *Rex v. North Nibley*, 5 T. R. 21.

If A. club with B. for three years (which signified one person contracting to serve another for the purpose of being taught some art or trade), and also agree to do any work that B. sets him about, a service under such a hiring will gain a settlement: *Rex v. Coltishall*, 5 T. R. 193.

A. clubbed with B. for three years, at a certain rate of weekly wages, with a provision that if he were prevented from working by bad weather,

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sect. 6.*

SETTLEMENT BY HIRING AND SERVICE—SPECIAL SERVICE—*con.*

illness, or want of employment, there should be a proportionable deduction of wages; a settlement was thereby acquired: *Rex v. Martham*, 1 East, 239.

A pensioner of the East India Company hiring himself as a servant for a year, with a reservation to himself of two days in each half year, when he might go for his pension, did not gain a settlement: *Rex v. Over*, 1 East, 599.

Where a person agreed to serve a year and a half, and the master was to teach a trade, and the servant was to have half his earnings, and find himself in everything, a settlement was gained: *Rex v. Eccleston*, 2 East, 298.

A hiring, at so much a week, meat, drink, washing and lodging, and to part on a week's notice, was not a general hiring, though the servant continued six years with the master, and no settlement was gained: *Rex v. Hanbury*, 2 East, 423.

Where nothing was said in a contract of hiring about time, but a reservation of weekly wages, it was a weekly hiring only, and no settlement was gained: *Rex v. Pucklechurch*, 5 East, 382.

A hiring at per month, with a month's wages or a month's warning, is a monthly and not a constructive yearly hiring: *Rex v. Tollishunt Knights*, Bott.

A hiring at per week for as long a time as the master and servant could agree, is only a weekly hiring: *Rex v. Mitcham*, 12 East, 351.

Hiring for a year at per week, and to be at liberty to be absent during the sheep-shearing, but to find a fit man at the servant's own expense to do his work, but his own wages to go on, did not confer a settlement: *Rex v. Arlington*, 1 M. & S. 622.

A servant in husbandry hired to serve for weekly wages, board, washing and lodging, except in the harvest month, when his wages were to be increased and afterwards to be reduced, did not gain a settlement, for it was only a weekly hiring: *Rex v. Dodderhill*, 3 M. & S. 243.

A hiring at per week and 2*l.* 2*s.* for harvest, to do anything the gardener should set the servant about, was not a yearly hiring: *Rex v. St. Mary, Lambeth*, 4 M. & S. 315.

A person agreed to serve as a brickmaker from Michaelmas to Michaelmas, and to make 70,000 bricks at a stipulated price. This was not a contract for a year's service absolutely, but to serve till the completion of the job; no settlement was gained: *Rex v. Woodhurst*, 1 B. & Ald. 325.

A servant was hired for a year from old Michaelmas-day, to go away a month at harvest and to make up the time after Michaelmas; no settlement as this was not a hiring for a year: *Rex v. Turvey*, 2 B. & Ald. 520.

Where there are express exceptions to a contract of hiring for a year no settlement is gained: *Rex v. Edgmond*, 3 B. & Ald. 107.

Where there was an exceptive and not a conditional hiring, no settlement was gained: *Rex v. Althorne*, 2 B. & C. 112.

Where there is an exceptive hiring, and the person hired works for other people, when the master had no work to do, no settlement was gained: *Rex v. Polesworth*, 2 B. & C. 715.

A person was hired for three years at annual wages, and the master at the time told the servant that he should not have full employment for him in the particular employment; but if employed otherwise he was to be paid extra—no settlement was thereby gained: *Rex v. Lydd*, 2 B. & C. 754.

A master shoemaker made a proposal to a woman to take her son to learn his business; the son was to serve for four years, to board and lodge with his mother, and to have half what he earned, no indentures were executed.

SETTLEMENT BY HIRING AND SERVICE—SPECIAL SERVICE—*continued.*

This was a defective contract of apprenticeship and no settlement gained : *Decisions on*
Rex v. St. Margaret's, King's Lynn, 6 B. & C. 97. *sect. 6.*

A person was hired to work for a year at 6s. a week, to work 10 hours a day, and afterwards it was agreed that he should receive additional pay for overwork ; held, an exceptive hiring, though the pauper never in fact refused to work over hours when requested: *Rex v. Norton Havant*, 3 A. & E. 161 ; 4 L. J. M. C. 86 ; 4 N. & M. 687.

A pauper was hired to colliery proprietors under certain stipulated conditions, and it was held to be an exceptive hiring, and no settlement was gained : *Rex v. Cowpen*, 5 A. & E. 333 ; 5 L. J. M. C. 125 ; 6 N. & M. 559.

A limitation as to the hours of work is an exceptive hiring which conferred no settlement : *Reg. v. Holbeck*, 4 Q. B. 590 ; 12 L. J. M. C. 78 ; 7 J. P. 560.

Though the periods of work comprise the full number of hours during which the servant was allowed by statute to work in a factory on any of the days, the hiring was nevertheless exceptive, and no settlement was gained : *Reg. v. Preston*, 4 Q. B. 597 ; 12 L. J. M. C. 80 ; 7 J. P. 545.

By agreement between A., B. and C., A. agreed to hire B., and B. agreed to be hired by A. for a term of three years, to dress silk, for 10s. a week for the first three months, and afterwards in proportion to the work done, provided B. did a certain quantity per week. It was further agreed that B. should receive from C. so much per week for superintending and teaching B., to make him a competent workman. A settlement by hiring and service might be gained by B. under this agreement : *Reg. v. Northowram*, 15 L. J. M. C. 149 ; 9 Q. B. 24.

As an illustration of an exceptive hiring not conferring a settlement in the case of men engaged to work as colliers : see *Reg. v. Walbottle*, 9 Q. B. 248 ; 15 L. J. M. C. 153 ; 10 J. P. 500.

SETTLEMENT BY HIRING AND SERVICE—CUSTOMARY HIRING.

The hiring must be for a year, a hiring from May-day to Lady-day, and from Lady-day to May-day will not suffice, even though it be the custom of the district : *Horsham v. Shipley*, Fol. 134.

A hiring from 3rd October to serve till Michaelmas following, and then upon request of the master, a continuous service until the end of the year, was not a hiring for a year : *Pepperharrow v. Frencham*, Fol. 135.

A hiring at a statute fair after Martinmas to serve from that time to Martinmas following, is not a hiring for a year, although it be by the custom of the district : *Rex v. Newton*, Burr. S. C. 157 ; Cald. 19, 102.

A hiring from Whitsuntide to Whitsuntide, the hiring being intended for a year, and so considered by the custom was a good hiring for a year, though it fell short of 365 days : *Rex v. Newstead*, Burr. S. C. 669 ; Cald. 101.

A hiring from Martinmas to Whitsuntide, and from Whitsuntide to Martinmas successively, was not sufficient, though it was the custom of the place : *Rex v. Lowther*, Burr. S. C. 674.

A hiring at a statute fair held the day after Old Michaelmas Day, to serve till Old Michaelmas Day following, was a hiring for a year—for all the days were to be taken inclusively : *Rex v. Navestock*, Bott. ; Burr. 719.

A hiring from the second day of one year until the first day of the next year, and service under it, gave a settlement : *Rex v. Syderstone cum Bermer*, Cald. 19 ; S. C. Doug. 441.

A hiring at a statute fair held three days after Martinmas, to serve till Martinmas following, was not a hiring for a year, although by the custom it was considered a hiring for a year : *Rex v. Hamwood*, Cald. 100 ; Doug. 439.

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SETTLEMENT BY HIRING AND SERVICE—CUSTOMARY HIRING—*con.*

A hiring and service from the day after Old Martinmas Day until Old Martinmas Day following, was a hiring for a year: *Rex v. Skiplam*, 1 T. R. 490.

A hiring three days after Michaelmas till the Michaelmas following, in leap-year, together with a service till the day after Michaelmas Day, making 365 days, did not gain a settlement, for it was not a hiring for a year: *Rex v. Ackley*, 3 T. R. 250.

A statute fair being held yearly on the day after Old Michaelmas Day, except when that day fell on a Sunday, and the fair being held on a Monday, —a hiring from such Monday till Old Michaelmas Day following, was not a yearly hiring: *Rex v. Standon Massey*, 10 East, 576.

A servant having hired himself without specifying any time, entered into the service the day before New Year's Day, and quitted two days after Christmas following, receiving his full wages, that being the usual time that servants in that part of the country went into and left their places. The court thought that this was a contract that had arrived at its termination before the expiration of a year; but the sessions having found it to be a hiring for a year, the court considered themselves as bound by that finding: *Rex v. Tyrley*, 4 B. & Ald. 624.

SETTLEMENT BY HIRING AND SERVICE—RETROSPECTIVE HIRING.

A retrospective hiring will not gain a settlement: *Rex v. Hoddesdon*, Cald. 23.

A retrospective hiring, as when Michaelmas Day fell on a Thursday, and upon the Saturday following a man was hired "from the said Thursday after Michaelmas Day to Michaelmas following," was not a sufficient hiring: *Coombe v. Westwoodhey*, Str. 143; Cald. 101.

A hiring for a year proposed by the servant on Michaelmas Day, but not accepted by the master till three days after, was a retrospective hiring, and no settlement was gained: *Rex v. Westwell*, 1 Barnard, 354.

A retrospective hiring, though according to the course and custom of the county, did not confer a settlement: *South Cerney v. Coultsbourn*, Bott.; S. C. 1 Sess. Ca. 156.

Where a boy went upon liking, and after eight weeks had expired he was hired for a year, to commence from the beginning of the eight weeks, and served only a year and ten days, including the eight weeks, was not sufficient to gain a settlement: *Rex v. Ilam*, Burr. S. C. 304.

A hiring three days after Michaelmas, to serve in husbandry until the Michaelmas following, is a retrospective hiring, not conferring a settlement under it: *Rex v. Mursley*, 1 T. R. 694.

A retrospective hiring did not confer a settlement: *Rex v. Marton*, 4 T. R. 257.

SETTLEMENT BY HIRING AND SERVICE—CONDITIONAL HIRING.

A conditional hiring, as for a quarter of a year, and if the master and servant liked one another, to continue for a year, conferred a settlement, if a year's service followed: *Rex v. Lidney*, Burr. S. C. 1; 2 Str. 950; 1 Sess. Ca. 211.

An agreement to go one month upon liking, with liberty to leave on a month's wages or a month's warning on either side, was a good conditional hiring, and a service for a year conferred a settlement: *Rex v. New Windsor*, Burr. S. C. 19.

A hiring for a year at wages payable quarterly, with liberty on either side to dermine the contract at the end of any quarter on a month's notice, was, if no such notice was given, a good conditional hiring for a year: *Rex v. Atherton*, Burr. S. C. 203.

SETTLEMENT BY HIRING AND SERVICE—CONDITIONAL HIRING—*con.* *Decisions on sect. 6.*

An agreement that a servant shall come for a quarter of a year at annual wages, and if he and his master liked each other, to continue, was, if the service continued, a good conditional hiring, conferring a settlement: *Rex v. St. Ebb's*, Burr. S. C. 289.

A service for a year under a hiring to serve as an ostler at so much per week, without fixing any time of service, did not gain a settlement: *Rex v. Odiham*, 2 T. R. 622.

Service for a year under a hiring "at 3s. per week the year round," with liberty to go on a fortnight's notice, did not give a settlement: *Rex v. Birdbrooke*, 4 T. R. 245.

That which is a conditional hiring for a year, and not an exceptive contract, confers a settlement by serving under it for a year: *Rex v. Byker*, 2 B. & C. 114.

Where a servant has not stipulated to be under the control of the master for the whole year, there is no settlement by hiring and service: *Rex v. Gateshead*, 2 B. & C. 117.

Hiring for a year, with a stipulation on the part of the servant, consented to by the master, that the former shall have "during the year two or three days to see her friends," was an exceptive hiring, and service under it gained no settlement: *Rex v. Leamington Priors*, 8 D. & R. 329.

One hired for three years, to work in summer from 6 in the morning to 7 at night, and in winter from 7 in the morning to 8 at night, and not to serve any other person, was exceptively hired, and no settlement was gained: *Rex v. Frome Selwood*, 1 B. & Ad. 207.

One hired to serve as carter from Michaelmas to Michaelmas, if the master had no sale, and if he should have a sale the servant was to leave. In a few months the master had a sale, and the servant left. This was a good contract for a year, and the servant having served the master a year, and part of that time under such contract, he gained a settlement: *Rex v. Farleigh Wallop*, 1 B. & Ad. 336.

A. agreed to become the hired servant of B. for five years, at certain wages, working from 6 in the morning till 7 in the evening, to be paid for all overtime, and a deduction to be made for all short time. This was held not an exceptive hiring, but a hiring for five years absolutely: *Rex v. Osset-cum-Gawthorpe*, 4 B. & Ad. 216.

Pauper agreed with the owners of a colliery to work constantly in the colliery, from 4th February, 1815, to 4th February, 1816, or to forfeit and pay to his master 1s. for each and every day he should be absent from his work, or not work a reasonable day's work to his satisfaction, was not an exceptive hiring: *Rex v. St. Helen's, Auckland*, 4 B. & Ad. 718.

Illustration of a conditional hiring after a year's service; which hiring conferred no settlement: *Rex v. Northwold*, 2 D. & R. 790.

Where a workman was hired for a year, to work at a trade under a contract, which said nothing as to any periods of absence allowed to the workman, parol evidence might be given to show that it was the custom of the particular trade for the workmen employed in it to take certain holidays, and on such occasions to absent themselves from their work without the permission of their masters: *Reg. v. Stoke-upon-Trent*, 13 L. J. M. C. 41.

SETTLEMENT BY HIRING AND SERVICE—SERVICE IN DIFFERENT PLACES.

A service of half a year in one parish, and half a year in another parish with the same master, is sufficient to confer a settlement in the second parish: *Rex v. Ashton*, Eott.; *Foley*, 188; *Sett. & Rem.* 23.

If a servant were hired to two masters in different parishes, he was settled where he lodged: *Rex v. Eldersley*, Bott.

If a house stood two-thirds in one parish, and one-third in another, a

SETTLEMENT BY HIRING AND SERVICE—SERVICE IN DIFFERENT PLACES—*continued.*

Decisions on
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servant was settled in that parish in which she lodged: *Feversham v. Graveney*, Fort. 221.

Residence in a parish for forty days, at different times, was sufficient to complete a settlement by hiring and service: *Rex v. Greenwich*, Burr. S. C. 243; Cald. 41, 143.

A servant hired for a year, by a lodger in an extra parochial place, who went with her mistress into an adjacent parish, merely on a visit, gained a settlement by serving the last 40 days in such parish: *Rex v. St. Peter's, Oxford*, Burr. S. C. 422; Foley, 193; Sett. & Rem. 103; Str. 524.

A service performed under a hiring for a year in a different parish from that where the master dwelt, gained a settlement there: *St. Peter's, Oxford v. Chipping Wycomb*, Str. 528; Fort. 315.

The service need not be performed at the place where the servant lived: *Rex v. Whitechapel*, Bott.; Foley 146; 2 Sess. Ca. 120; 8 Mod. 369.

A servant who was hired in one parish and served in another, was settled where he served the last 40 days: *Rex v. Spitalfields*, Bott. 8 Mod. 309.

A servant gained a settlement where the last 40 days were served, although his master had no settlement in the parish: *Bishop's Hatfield v. St. Peter's*, Bott.; Foley 197; Str. 794.

A waterman's boy, who served a year by navigating a boat from Goring to London, did not gain a settlement unless he lived 40 days in the parish: *Goring v. Moltsworth*, 1 Barnard, 436; Sett. & Rem. 219; 1 Sess. Ca. 412.

Hiring and service for a year, and a subsequent continuance in the same service under the original contract, gained a settlement where the service was performed for the last 40 days: *Rex v. Croscombe*, Burr. S. C. 256; Str. 1240.

A person by hiring and service for forty days in a parish where his master was temporarily, did not gain a settlement there: *Alton v. Elvetham*, Bott.; Burr. S. C. 418.

A sailor boy, who hired himself to the boatswain of a hulk lying in a river, and served for a year, sometimes on board one hulk, sometimes in another, and sleeping therein, might gain a settlement in the parish where the hulk lay, though the master had a residence in a different parish: *Rex v. Friendsbury*, Burr. S. C. 644.

A groom, who is hired for a year, gained a settlement by serving 40 days at a public place, to which he went for the purpose of training his master's horses, although the master had neither house nor land, nor a settlement in the place: *Rex v. East Ilsley*, Burr. S. C. 722.

A servant under a yearly hiring, who served the last 40 days with his master in a watering place, where he was temporarily, gained a settlement there: *Rex v. Bath Easton*, Burr. S. C. 774.

If the residence of a servant were alternately in two parishes, but he did not continue 40 successive days in either, but more than 40 days uninterruptedly in both, he gained a settlement in that parish in which he last served: *Rex v. Lowess*, Burr. S. C. 825.

A servant who slept with his wife, without his master's knowledge, out of the parish in which his master lived, gained a settlement in the parish where he so slept: *Rex v. Hedson*, Bald. 51; S. P. *Rex v. Nympsfield*, Cald. 107.

If a servant resided part of the year in one parish, and part in another at different times and intervals, making when added together more than 40 days in each; his settlement was in the parish where he slept the last night: *Rex v. Hulland*, Doug. 657; Cald. 118.

If under a hiring for a year, there were an inhabitancy of 40 days at any interval throughout the year, in any number of parishes, wherever the

SETTLEMENT BY HIRING AND SERVICE—SERVICE IN DIFFERENT PLACES—*continued.*

last day's inhabitancy happened to be, such would connect with any prior inhabitancy in the course of the year, and if throughout the year the whole amounted to 40 days in that place, the settlement attached: *Rex v. Iveston*, Cald. 288; *S. P. Rex v. Great Bookham*, Cald. 290. *Decisions on sect. 6.*

Where the last 40 days were served in a place where no settlement could be gained, the settlement was in the place where the preceding 40 days were served: *Rex v. St. Andrew's, Holborn*, Bott.; Cald. 405.

If a yearly servant served 40 days in A., then 40 in B., and afterwards returned to his father's house in A. for the last three days of the year with his master's consent, he gained a settlement in A.: *Rex v. Undermilbeck*, 5 T. R. 387.

The 40 days' residence must have been within the compass of a year: *Rex v. Denham*, 1 M. & S. 221.

In settlement by hiring and service, the pauper was settled where his place of rest was: *Rex v. Mildenhall*, 3 B. & Ald. 374.

Where a servant served under a yearly hiring in parish A., and was again hired in the same parish by the same master, for a period less than a year, and he removed with his master into parish B., where he served, he did not gain a settlement in the latter parish, for there was not a yearly hiring: *Rex v. Apethorpe*, 2 B. & C. 892.

The 40 days' residence must be within the compass of a year, but need not be under the same year's hiring: *Rex v. Findon*, 4 B. & C. 91.

A hired servant was settled in that parish in which he last completed a 40 days' residence, although he performed no service there for his master: *Rex v. Dremerchion*, 3 B. & Ad. 420.

To gain a settlement by hiring and service, the whole 40 days' residence need not have been within the compass of a year from the time of the yearly hiring: *Rex v. Child Okeford*, 3 B. & Ad. 809.

A pauper being hired to a master in L., and being incapacitated from actual service by illness, left L., and resided for the last 40 days of the hiring in E. with his father, his master supplying him with victuals and medical attendance. He did not gain a settlement in L.: *Rex v. Eastwick*, 12 A. & E. 697.

SETTLEMENT BY HIRING AND SERVICE—SERVICE WITH DIFFERENT MASTERS.

A service under a hiring for a year, part with the original master, and the remainder with a stranger to whom the farm was let, was a good service if there was no dissolution of the original hiring: *Rex v. Ivinghoe*, Str. 90.

A service with another person, with the master's consent, is not a dissolution of the contract of hiring: *Rex v. Beecles*, Burr. S. C. 230; Str. 1207.

A pauper was bound apprentice and served in the appellant parish under the indentures for 20 months, after which his father bought up the remainder of the time, and the indentures were cancelled, and the pauper afterwards let himself to another person of the same trade under a written agreement: held, that the agreement was one of hiring and service: *Rex v. Billingham*, 5 A. & E. 676; 6 L. J. M. C. 38; 1 N. & P. 149.

SETTLEMENT BY HIRING AND SERVICE—MARRIAGE DURING SERVICE.

If a servant was hired for a year, his subsequent marriage did not dissolve the contract between master and servant, nor prevent him from serving out the year in order to gain a settlement: *Farrington v. Witty*, Salk. 527.

SETTLEMENT BY HIRING AND SERVICE—MARRIAGE DURING
SERVICE—*continued.*

*Decisions on
sect. 6.*

Marriage between the hiring and completion of the service was no impediment to a settlement being gained: *Rex v. Clent*, Foley, 148.

If a servant were unmarried at the time of the hiring, his marriage afterwards did not prevent his gaining a settlement by serving the year: *Rex v. Sutton*, 2 Sess. Ca. 133.

A master could not turn away a servant hired for a year, on account of his having married during the service of such year, and though discharged a settlement was gained: *Rex v. Hanbury*, Burr. S. C. 322.

If a servant under a general hiring married during the year and served 11 months, and then moved into another parish and continued to serve the same master, those services could not be united, because at the commencement of the second year he was married: *Rex v. St. Giles*, Reading, Cald. 54.

Marriage between the hiring and commencement of the service does not alter the settlement: *Rex v. Allendale*, 3 T. R. 382.

SETTLEMENT BY HIRING AND SERVICE—ABSENCE FROM THE SERVICE.

An absence created by the fault or contrivance of the master did not prevent a settlement: *Rex v. Hardingham*, Stiles, 168.

An absence in the middle of the year, if the servant was received back before the year expired, did not prevent a settlement: *Rex v. Eaton*, Burr. S. C. 47.

Absence on account of sickness is not a dissolution of the contract of hiring: *Rex v. Ozleworth*, Burr. S. C. 302.

A servant, 17 days before the year expired, was removed from her master's house on account of her illness, and the next day received the whole of her wages, and did not recover so as to return within the year. This absence was no dissolution of the contract: *Rex v. Christchurch*, Burr. S. C. 494; 1 W. Bl. 214.

A servant, having received a kick from a horse, left service about three weeks before the end of the year without his master's knowledge, and went to his friends, and did not return to his master during the year, but on receiving his wages allowed his master for his absence. This was no dissolution of the contract: *Rex v. Maddington*, Burr. S. C. 675.

An absence from service on holidays and Sundays, according to the custom of the particular trade, did not prevent a settlement: *Rex v. St. Agnes*, Bott.

If a hired servant was turned away before the expiration of the year because he was the reputed father of a bastard child, he thereby lost his settlement: *Rex v. Welford*, Cald. 57.

If a servant was taken into custody for an offence, and was so prevented continuing his service, if discharged by his master, the discharge was a dissolution of the contract, and no settlement was gained: *Rex v. Westmeon*, Cald. 129.

The consent of a servant given in express terms to the dissolution of his contract, unless fraud was alleged, must be conclusive: *Rex v. Seagrave*, Cald. 247.

A servant, disabled by an accident in the beginning of the year, and never after received into the service, gained a settlement: *Rex v. Sharrington*, Bott.; Cald. 472.

If a hired servant were taken on a charge of bastardy, and married the next day, and was removed to his former parish, but returned to his place in a few days, and his master received him, and served out for full wages the full year, the absence was nevertheless an interruption of the service, and no settlement was gained: *Rex v. Kenilworth*, 2 T. R. 598.

SETTLEMENT BY HIRING AND SERVICE—ABSENCE FROM THE SERVICE—*continued.*

A servant who became lunatic 40 days before the end of the year, and was taken home by his father in another parish, but received his wages for the whole year, did not by his absence lose his settlement in his master's parish: *Rex v. Sutton*, 5 T. R. 657. *Decisions on sect. 6.*

If a servant were taken ill five days before the end of the year, and went home to his mother, who by his desire fetched away his clothes and received the year's wages, excepting 1s. for the five days, this was a dissolution of the contract: *Rex v. Whittlebury*, 6 T. R. 464.

A yearly servant about a fortnight before the expiration of his year of service became too ill to work, and his master paid him his whole year's wages when he left the service. This was a dissolution of the contract, and no settlement was gained: *Rex v. Sudbrooke*, 4 East, 356.

The commitment to prison of a servant for misbehaviour to his master was not a dissolution of the contract if the servant afterwards returned to his master on his discharge from prison: *Rex v. Barton-upon-Irwell*, 2 M. & S. 329.

Where a person being hired for a year, and having served till a few days of the end of the year, went without his master's knowledge to a statute fair to hire himself for the next year, and on the master dismissing him went before a magistrate with his master, and there offered to serve his year out; but upon receiving his full wages was satisfied, and did not return to his service, but neither hired nor offered to hire himself into a fresh service till the year was out. This amounted only to a dispensation, and a settlement was gained: *Rex v. Polesworth*, 2 B. & Ald. 483.

Where a servant was committed for misbehaviour, and was not discharged from prison till his year's hiring was up, this was an abiding for a whole year within 8 & 9 Will. 3, c. 30, and a settlement was gained: *Rex v. Hallow*, 2 B. & C. 739.

A settlement could not be gained by hiring and service if the servant at the time of hiring was a member of a volunteer corps under 44 Geo. 3, c. 54, and did not at his hiring mention that fact to his master: *Rex v. Withesham*, 2 A. & E. 648; 4 L. J. M. C. 84; 4 N. & M. 447.

A pauper on hiring himself for a year told his master that he should want a holiday to go to his feast, and the master agreed that he should have one for that purpose, but no specific holiday was fixed. The hiring was exceptive, and no settlement was gained: *Reg. v. Threkingham*, 7 A. & E. 866.

A pauper being hired to a master resident in L., and being incapacitated from actual service by illness left L. and resided for the last 40 days of the hiring in E., no settlement was gained; though L. had relieved the pauper after the expiration of the service while resident in E. The sessions finding that this was done under a misconception: *Reg. v. East Winch*, 12 A. & E. 697; 10 L. J. M. C. 7; 4 P. & D. 342.

SETTLEMENT BY HIRING AND SERVICE—SETTLEMENT BY CERTIFICATED PERSONS.

The son of a certificate man born after the certificate was incapable of gaining a settlement by hiring and service in the certificated parish: *Rex v. Sherborne*, Burr. S. C. 182; S. P. *Rex v. Bray*, ib. 259.

The son of a certificate man born in the certificated parish was incapable of gaining a settlement there by hiring and service: *Rex v. Buckingham*, Burr. S. C. 314; S. P. *Rex v. Lechlade*, ib. 380.

The son of a certificate man might gain a settlement by hiring and service in a third parish: *Rex v. Horsley*, Say. 228; Burr. S. C. 385.

The infant son of a person living at A. under a certificate served a year at B. (extra parochial) under a yearly hiring, and then returned to A. under

SETTLEMENT BY HIRING AND SERVICE—SETTLEMENT BY CERTIFICATE PERSONS—*continued.*

*Decisions on
sect. 6.*

21, where he was hired and served a year. He gained no settlement: *Rex v. Collingbourne Ducis*, 4 T. R. 199.

A parish certificate only included the certificated man, his wife and three children who lived with him; but it did not extend to grandchildren: *Rex v. Darlington*, 4 T. R. 797.

If a parish certificate be granted to A. and to B. and C. his children by name, the residence of B. and of his family in the certificated parish is protected by it; and a son of B., not having been emancipated, could not gain a settlement in the certificated parish by hiring and service: *Rex v. Bath Easton*, 8 T. R. 446.

SETTLEMENT BY HIRING AND SERVICE—EVIDENCE OF HIRING AND SERVICE.

The declaration of the pauper's father made to his wife respecting his having been hired for a year and served in a particular parish, was held to be admissible evidence in an inquiry into the settlement of his sons: *Rex v. Nutley*, Burr. S. C. 701.

Evidence of a pauper having lived in the capacity of an ostler, and of his having said that he was settled in the parish, will support the inference that he was hired for a year: *Rex v. Holy Trinity, in Wareham*, Cald. 141.

The declaration of a husband as to facts concerning his settlement, by hiring and service, seem to be admissible after his decease; but if the settlement depend on a written instrument, it must first be shown that inquiry has been made after such instrument: *Rex v. St. Sepulchre, London*, Bott.

If a husbandman served for a year, it is strong presumptive evidence that he served under a contract of hiring for a year: *Rex v. Lyth*, 5 T. R. 327.

If a servant live three years in service with the same master, it is presumptive evidence of a contract of hiring for a year, although at first the servant only hired himself for a part of the year: *Rex v. Long Whaddon*, 5 T. R. 447.

If a servant after serving a year, part of which was under a retrospective hiring, continued in service another year, a contract of hiring may be presumed: *Rex v. Hales*, 5 T. R. 668.

An *ex parte* examination in writing of a pauper on oath, for the purpose of removing him to his settlement, is not admissible evidence on an appeal against an order of removal, on the ground of the pauper's having absconded between the notice of the appeal and the hearing at the sessions, although the respondents had used due diligence to procure the attendance of the pauper as a witness, he not having been heard of from the time of absconding: *Rex v. Nuneham Courtney*, 1 East, 373.

Neither the hearsay evidence of a pauper nor his *ex parte* examination in writing taken on oath touching his settlement are admissible evidence of such settlement: *Rex v. Ferry Frystone*, 2 East, 54.

An *ex parte* examination in writing of a pauper touching his settlement by hiring and service cannot be received in evidence of such settlement, though he be dead: *Rex v. Abergwilly*, 2 East, 63.

Though an unstamped agreement could not be received in evidence, yet the sessions may look at it for the purpose of seeing when it ceased to operate, in order to guide them in receiving parol evidence of service for the last few years at wages from whence they might presume a yearly contract: *Rex v. Pendleton*, 15 East, 440.

On the trial of an appeal as to settlement by hiring and service in the

VII. And it is hereby further enacted that if any person shall be bound an apprentice by indenture and inhabit in any town or parish such binding and inhabitation shall be adjudged a good settlement though no such notice in writing (a) be delivered and published as aforesaid (b).

(a) See sect. 3, repealed.

(b) See 31 Geo. 2, c. 11, s. 1; and 4 & 5 Will. 4, c. 76, s. 67.

SETTLEMENT BY HIRING AND SERVICE—EVIDENCE OF HIRING AND SERVICE—continued.

case of a female pauper, evidence ought to be received for the purpose of ascertaining whether the consideration for the hiring was wholly or in part *Decisions on sect. 6.*

cohabitation: Rex v. North Wingfield, 1 B. & Ad. 912.

Appellants against an order of removal called a witness to give parol evidence of a hiring. On cross-examination he stated that at the time of the hiring, he and the servant went to the chief constable's clerk, who in their presence and by their direction entered the terms of hiring in writing, but neither of them signed the entry. This was held not sufficient proof of the contract having been put into writing to exclude parol evidence of the terms: *Rex v. Wrangle*, 2 A. & E. 514; 4 L. J. M. C. 43.

Where sessions have decided that sufficient search had not been made for an agreement to let in secondary evidence of its contents, the court will not interfere, unless it sees clearly that the sessions were wrong: *Reg. v. Saffron Hill, Hatton Garden and Ely Rents*, 1 E. & B. 93; 22 L. J. M. C. 22.

It was proved that the father of the pauper's mother rented and occupied a tenement for four years, ended at Midsummer, 1830; the mother was called to prove that she heard her father say that he had rented a house of A. at 22*l.* a year, and had paid the rent for it; and she produced a book containing entries in his handwriting, stating that he had paid A. two sums amounting to 5*l.* 10*s.* for a quarter's rent due at Midsummer, 1830: held,—1, that the declaration and the entries were admissible evidence as to the fact of payment of rent,—2, that the undisturbed occupation by the tenant of the house for four years was presumptive proof payment: *Reg. v. Exeter*, 10 B. & S. 433.

SETTLEMENT BY APPRENTICESHIP—THE BINDING.

Any person bound apprentice to a master shall thereby gain a settlement: *Anon. Bott.*; S. C. Vin. Ab. 29. *Decisions on sect. 7.*

An apprentice who binds himself during infancy thereby gains a settlement: *Newberry v. St. Mary's*, Foley, 154; Sett. & Rem. 77.

The indentures must be legally stamped to entitle an apprentice to a settlement under them: *Salford v. Storeford*, Bott.; S. C. 2 Barnard, 39.

An infant apprentice must be bound by indenture under 5 Eliz. c. 4: *Smith v. Birch*, 1 Sess. Ca. 222.

A covenant between the master and a third person, the servant not being a party to it, makes no apprenticeship: *Rex v. Chesterfield*, Salk. 479.

An apprentice may gain a settlement though the master have none in the same parish, and is only a lodger there: *St. Bride's v. St. Saviour's*, 2 Salk. 533.

SETTLEMENT BY APPRENTICESHIP—THE BINDING—*continued.*

*Decisions on
sect. 7.*

An apprentice, bound for four years only, gained a settlement: *Rex v. St. Nicholas, Ipswich*, Str. 1066; Burr. S. C. 91.

A binding for less than seven years is only voidable and not void: *St. Nicholas v. St. Peter's*, Burr. S. C. 91.

A binding and service will gain a settlement though the apprentice fee be not inserted in the indenture; for that only subjected the master to a forfeiture and did not vacate the indenture: *Rex v. Northowram*, Bott.; S. C. 2 Sess. Ca. 196; Burr. S. C. 145; Str. 1132.

Settlement may be gained where the apprentice is bound, though the indenture be not executed by the master: *Rex v. St. Peters-on-the-Hill*, Bott.

A binding, though defective in omitting part of the form required by 43 Eliz. c. 2, s. 5, and voidable between the parties, yet not avoided, was good for the purposes of settlement: *Rex v. St. Petrox*, Burr. S. C. 248.

A parol binding without an indenture will not gain a settlement by apprenticeship: *Rex v. Stratton*, Burr. S. C. 272; *Rex v. Mawnan*, Burr. S. C. 290.

An apprenticeship must be by deed or writing; for a parol binding or a verbal agreement to be an apprentice is not a sufficient binding to gain a settlement: *Rex v. Whitchurch Canonorum*, Burr. S. C. 540.

An apprentice bound out by a public charity gained a settlement though the indenture was not stamped: *Rex v. St. Matthew's, Bethnal Green*, Burr. S. C. 574.

An indenture of apprenticeship for less than seven years and unrolled is not void, but only voidable; and service under it for 40 days at different times gained a settlement: *Rex v. Gainsborough*, Burr. S. C. 586.

If an agreement be made that a boy shall be put apprentice, but no indenture be executed, he cannot gain a settlement as a hired servant by serving as an apprentice under such agreement: *Rex v. All Saints, Hereford*, Burr. S. C. 656.

A poor child may be bound apprentice to an inhabitant of another parish, and shall be settled where he or she serves the last 40 days under the indenture: *Rex v. St. Margaret's, in Lincoln*, Burr. S. C. 728.

A parol binding will not gain a settlement by apprenticeship: *Rex v. Kingswear*, Burr. S. C. 839.

An apprentice legally bound shall not be prevented from gaining a settlement under the indenture from the master not having signed the counterpart: *Rex v. Fleet*, Cald. 31.

Where an apprenticeship is intended, and the parties to save the stamp duties enter into a written agreement, this defective apprenticeship does not give a settlement by way of hiring and service: *Rex v. Higham*, Bott.; S. C. Cald. 491.

A parish apprentice, bound to a master residing in a different parish and county, will gain a settlement by residing 40 days under the indenture, although he the apprentice did not sign the deed: *Reg. v. St. Nicholas, in Nottingham*, 2 T. R. 726.

A parish apprentice could not gain a settlement under indentures to which the two justices assented separately, for they are for this defect absolutely void: *Rex v. Hamstall Redware*, 3 T. R. 380.

An apprentice, bound to an infant 14 years of age, gained a settlement by serving 40 days under the indenture, notwithstanding the infancy of the master: *Rex v. St. Petrox, Dartmouth*, 4 T. R. 196.

No settlement was gained by serving under an agreement of apprenticeship not stamped: *Rex v. Ditchingham*, 4 T. R. 769.

SETTLEMENT BY APPRENTICESHIP—THE BINDING—*continued.*

If A. served seven years as an apprentice, and there were no indenture, *Decisions on* he could not gain a settlement either as an apprentice, or as a yearly *sect. 7.* servant: *Rex v. Margram*, 5 T. R. 153.

An apprentice of 17 years of age and upwards, bound by indenture (which stated him to be 14), for seven years, is entitled to be discharged at 21: *Ex parte Davis*, 5 T. R. 715.

A defective contract of apprenticeship could not be converted into a contract of hiring and service so as to give the apprentice a settlement as a yearly servant serving under it: *Rex v. Laindon*, 8 T. R. 379.

A contract of apprenticeship may be formed without using the term apprentice, for parol evidence may be received, and explain it: *ibid.*

The assent of two justices to a parish indenture, was sufficiently signified by one of them first signing it alone, and being afterwards present when the other signed it: *Rex v. Winwick*, 8 T. R. 454.

A contract, under seal and stamped, to serve for three years at so much per week, the master agreeing to teach the other a trade, and the other agreeing that if he lost any time to the prejudice of his master, he would abate so much per day, constitutes an apprenticeship. At any rate the pauper having served under it for more than a year, gained a settlement either as an apprentice or as a hired servant: *Rex v. Rainham*, 1 East, 531.

An agreement between the father and the master, not binding upon the son or the father for him to any service for the master, and the son's service being merely voluntary is no apprenticeship in point of law, and no settlement is gained: *Rex v. Cromford*, 8 East, 25.

An indenture binding an adult as an apprentice, which was not executed by the apprentice, but only by the father-in-law and the master, though with the consent of the apprentice, did not confer a settlement, as it was no apprenticeship: *Rex v. Ripon*, 9 East, 295.

An indenture of apprenticeship executed by A., churchwarden, and B., overseer of a hamlet maintaining its own poor separately from the parish at large, not being impeached by evidence negating its execution by a majority of the churchwardens and overseers of the hamlet, is good by intending that there were two overseers for the hamlet, as required by 14 Car. 2, c. 12, s. 21, and any one churchwarden, by custom in the same place, and therefore the apprentice having served 40 days under it, gained a settlement: *Rex v. Hinckley*, 12 East, 361.

A settlement is not gained under an indenture of apprenticeship which was not legal: *Rex v. All Saints, Derby*, 13 East, 143.

After a pauper under age had hired himself generally for a year to a brick-maker, and served part of the time, they entered into a written contract unstamped, and without seals, whereby the pauper covenanted to serve the master for three years to learn to make bricks, and on certain conditions; but the master did not bind himself to teach him to make them. This contract was no proof of an apprenticeship, and no settlement was gained: *Rex v. Shinfield*, 14 East, 541.

Since 14 Car. 2, c. 12, an indenture of apprenticeship, executed by the overseers of a township which had no churchwardens, and maintained its own poor separately, was a valid indenture, though neither the churchwardens of the parish at large within which the township was situated, joined in the execution; therefore a service under such indenture was held to confer a settlement: *Rex v. Nantwich*, 16 East, 228.

Where the father of the pauper contracted with I. S., that his son should be with him, and should work for him two years, and have what he

SETTLEMENT BY APPRENTICESHIP—THE BINDING—*continued.*

*Decisions on
sect. 7.*

got, and should allow 2s. *per* week out of his gains to I. S., viz., 1s. for teaching him his business of a frame knitter, 9d. for the rent of a frame, and 3d. for its standing, this was no apprenticeship, but evidence of a contract of hiring and service, and a settlement was gained by such hiring and service: *Rex v. Barbach*, 1 M. & S. 370.

An indenture, binding out an apprentice, with the consent of the trustees of funds bequeathed for binding out poor apprentices, which was executed by the apprentice and master, and recited the trustees to be parties, and in which the consideration paid by the trustees to the master, was stated to be 20*l.*, was held to confer a settlement, though it was not executed by the trustees, and though the master actually received only 15*l.* 15*s.* 6*d.*, the residue being retained by the agent of the trustees for costs and expenses of the binding: *Rex v. Quainton*, 2 M. & S. 338.

Where the father agreed with R. that he R. should take his son for six years, to teach him the trade of a frame work knitter, and he was to allow R. 9*s.* a week for the first three years for teaching him, and for his board and lodging. This was a defective contract of apprenticeship, and no settlement was gained under it: *Rex v. Mount Sorrell*, 2 M. & S. 460.

Circumstances, under which the sessions were not warranted in finding fraud, so as to defeat a settlement under indentures of apprenticeship: *Rex v. Kilby*, 2 M. & S. 501.

An infant may bind himself apprentice by indenture because it is for his benefit: *Rex v. Arundel*, 5 M. & S. 257.

An apprentice to a barge-master, who had slept 35 nights in his master's parish during his service, went with his master on a voyage to London, where the master absconded; but the apprentice returned in the barge to the master's parish, and remained on board two days, when he was conveyed to the poor-house by direction of the master's wife, he being ill, and maintained there at her expense during three weeks. He gained a settlement: *Rex v. Foulness*, 6 M. & S. 351.

The binding an apprentice to a *feme covert* is void: *Rex v. Guildford*, 2 Chit. 284.

A father has at common law no authority to bind his infant son apprentice without his consent; consequently if the indenture be not executed by the son it is invalid: *Rex v. Arnesby*, 3 B. & Ald. 584.

An agreement which created the relation of master and scholar, and not that of master and servant, could not confer a settlement: *Rex v. St. Mary, Kidwelly*, 2 B. & C. 750.

A master shoemaker made a proposal to a poor woman to take her son to learn his business; the son was to serve him for four years, to board and lodge with his mother, and to have half what he earned. No indentures were executed: held, that this was a defective contract of apprenticeship, and the pauper did not gain a settlement under it: *Rex v. St. Margaret's, King's Lynn*, 6 B. & C. 97.

A pauper was bound to his grandfather, described as a butcher, as parish apprentice, and indentures were executed with the sanction of two justices. The grandfather in fact did not carry on the trade of a butcher, but he and the mother colluded together and fraudulently imposed him on the justices and the parish officers as a proper master for the pauper: held, that there being no fraud on the part of the parish officers, the pauper gained a settlement by serving under the indenture: *Rex v. Great Sheepy*, 8 B. & C. 74.

It is a defective contract of apprenticeship, and not a contract of hiring, if the pauper be hired to learn a trade, and work at any other work the master has for him to do, as well as at the trade: *Rex v. Combe*, 8 B. & C. 82.

An indenture binding the apprentice to serve A. for the first four years,

SETTLEMENT BY APPRENTICESHIP—THE BINDING—*continued.*

and his own father for the three last, and learn two different trades, is a *Decisions on* valid indenture, and required only one stamp: *Rex v. Louth*, 8 B. & C. 247. *sect. 7.*

The 28 Geo. 3, c. 48, s. 4, made void all indentures whereby children under 8 years are bound apprentice to chimney sweepers, and no settlement could be gained by serving under them: *Rex v. Hipswell*, 8 B. & C. 466.

A contract to serve as an articulated servant to learn the trade of a plumber, and at weekly wages, to do gardening or any other work his master had, was a defective contract of apprenticeship, and not a contract of hiring: *Rex v. Tipton*, 9 B. & C. 888.

Where the principal object of parties to an indenture of apprenticeship, is that the apprentice shall learn the trade of the master, it is to be deemed a contract of apprenticeship, and not one of hiring and service: *Rex v. Edingale*, 10 B. & C. 739.

Instance of a defective contract of apprenticeship under which no settlement was gained: *Rex v. Nether Knutsford*, 1 B. & Ad. 726.

A pauper, the son of a certificated person, was at the age of 11 bound apprentice in the certificated parish, when he was removed to the certifying parish, where he stayed a week, and then returned to the certificated parish where he served his master more than 40 days.—He did not gain a settlement by apprenticeship, as the binding was before he came of age: *Rex v. Queensborough*, 2 B. & A. 219.

If the principal object of an agreement be that the apprentice should learn, and the master teach him a trade, it is a defective contract of apprenticeship, and no settlement is gained: *Rex v. Crediton*, 2 B. & Ad. 493.

An apprenticeship to a freeman contrary to statute is absolutely void, and no settlement is gained under it: *Rex v. Gravesend*, 3 B. & Ad. 240.

The apprentice and his father being unable to write, desired a third person to write their names opposite two of the seals, and he did so. The indenture was not read to them. The boy went into service under it; and it was held to have been sufficiently executed: *Rex v. Longnor*, 4 B. & Ad. 647.

The supply of clothes to a boy bound out apprentice by a charity, was held not to be an expense incurred by the parochial funds within 56 Geo. 3, c. 139, s. 11, so as to require the approval of two justices to the indenture: *Rex v. Quinton*, 1 A. & E. 133; 3 L. J. M. C. 93; 3 N. & M. 289.

Where the object of the pauper's engagement is learning and not service, it is an imperfect contract of apprenticeship, and no settlement is gained; *Rex v. Newtown*, 1 A. & E. 238; 3 L. J. M. C. 79; 3 N. & M. 306.

An indenture binding a boy as an apprentice for a longer period than was allowed by a local Act, was held not to be absolutely void, but only voidable: *Rex v. St. Gregory*, 2 A. & E. 99; 4 L. J. M. C. 9; 4 N. & M. 137.

The 37 Geo. 3, c. 111, s. 3, as to exemption from stamp duty, did not apply to cases where no sum or value was given or contracted for: *Rex v. Mabe*, 3 A. & E. 531; 4 L. J. M. C. 107; 5 N. & M. 241.

It is doubtful, in some instances, whether the contract was that of hiring and service, or of apprenticeship; but where it can be collected from the facts, that there is to be learning on the part of the apprentice, and teaching on the part of the master, it is a contract of apprenticeship: *Rex v. Great Wishford*, 4 A. & E. 216; 5 L. J. M. C. 25; 5 N. & M. 540.

Under 56 Geo. 3, c. 139, ss. 1, 2, where an apprentice was bound from one parish into another, the indenture was not valid for the purpose of settlement, unless notice was given to the overseers of the latter parish before the indenture was allowed; but if there be no evidence to the contrary the notice will be presumed: *Rex v. Whiston*, 4 A. & E. 607; 5 L. J. M. C. 67; 6 N. & M. 65.

SETTLEMENT BY APPRENTICESHIP—THE BINDING—*continued*.

*Decisions on
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A printed indenture of apprenticeship executed on one day, but bearing date on another, is not void by 8 Anne, c. 9, and a settlement may be gained by service under it: *Rex v. Harrington*, 4 A. & E. 618; 5 L. J. M. C. 83; 6 N. & M. 165.

Pauper's brother worked with W., a carpenter, as an apprentice under a verbal contract, and, on his leaving W., he applied for pauper to be taken in his place. W. said he would take no more apprentices, unless they would agree to work on his land as well as at the carpentry business, saying, "I will have no more apprentices, unless he is agreeable to do other work as well; I will take him to do work as a servant." W. occupied three or four acres of hop ground. It was agreed that pauper should live with W. three years to learn the business of a carpenter, and to do any other work W. required—to have wages, and be paid for overwork, and maintain himself. This was an imperfect contract of apprenticeship, and no settlement was gained by hiring and service: *Rex v. Ightham*, 4 A. & E. 937; 5 L. J. M. C. 105; 6 N. & M. 320.

An indenture of apprenticeship as a sailor, made in Newfoundland, conferred a settlement in an English parish by residence and service there: *Rex v. Closworthy*, 6 A. & E. 286; 6 L. J. M. C. 71; 1 N. & P. 437.

An indenture of apprenticeship between a son and his father to evade the 5 Eliz. c. 4, and obtain the benefit of a seven years' apprenticeship by serving five, did not confer a settlement: *Reg. v. Barmstone*, 7 A. & E. 858; 7 L. J. M. C. 31; 3 N. & P. 167.

An apprentice, who met with an accident which disabled him from working at his trade, went into another parish, M., to be with his mother, for surgical advice. His master employed him there to sell tickets for a lottery, which was illegal, and allowed him 1s. on each ticket. He gained a settlement in M., though the sale of the tickets was illegal: *Reg. v. Somerby*, 9 A. & E. 310; 1 P. & D. 180.

Where there has been a binding by indenture and a residence with the master, a settlement is gained; although it be expressly found that the apprentice never served the master at his trade, nor was instructed during the apprenticeship: *Reg. v. Burslem*, 9 L. J. M. C. 1; 11 A. & E. 52.

It being stated in the indenture that the apprentice was bound till he attained the age of 21 years, and the age of the pauper appearing on the examination, and also it being therein stated that he served under the indenture and resided with his master until he was 21, a binding service and 40 days' residence sufficiently appeared: *Reg. v. Wooldale*, 6 Q. B. 549; 14 L. J. M. C. 13.

Under 56 Geo. 3, c. 139, s. 2, notice of an intended binding of an apprentice from one parish into another is sufficiently given if served upon one of the overseers of the latter, and addressed to the whole body of parish officers: *Reg. v. Holme*, 9 Q. B. 70; 15 L. J. M. C. 125; 10 J. P. 517.

As the statute required that the justices who allow should be the same as those who order, if the names and dates be the same, it must be taken that those who allowed were justices of the county: *Reg. v. Ashburton*, 9 Q. B. 871; 15 L. J. M. C. 97; 10 J. P. 482.

A parish apprentice, bound by indenture executed by A. B., churchwarden of the township of L., and by C. D., one of the overseers of the same township, was sufficient under 54 Geo. 3, c. 107, s. 2: *Reg. v. Stainforth*, 17 L. J. M. C. 25; 11 Q. B. 66; 12 J. P. 105.

An indenture of apprenticeship under 28 Geo. 3, c. 48, by which a boy, not under the age of eight years, bound himself apprentice to a chimney-sweeper with the consent of his parent, was valid without the consent of two justices; and therefore a settlement was gained by service under it: *Reg. v. Epsom*, 1 Jur. (N. S.) 474; 25 L. T. 81.

The allowance of an indenture of apprenticeship by justices under 56

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Geo. 3, c. 139, s. 1, need not appear on the face of it to be made within their jurisdiction: *Reg. v. Stainforth*, 11 Q. B. 66; 17 L. J. M. C. 25; 12 J. P. *sect. 7.* 105.

The allowance of the indenture should appear on the face of it to be locally made within the jurisdiction of the allowing justices, except in cases where such jurisdiction appears in the order for binding, and the allowance is made by the same justices: *Reg. v. Totnes*, 11 Q. B. 80; 18 L. J. M. C. 46; 13 J. P. 283.

Where an indenture of parish apprenticeship stated in the body of it that the binding was with the approbation of two justices, whose names were subscribed, and the allowance at the foot purported to be signed by the justices before the indenture was executed, and referred by date to the names of the justices to the order for binding, this was a compliance with 56 Geo. 3, c. 139, as the allowance was in such case part of the indenture. The allowance purported to be made by A. and B., justices in and for the W. R. of the city of York, &c., and it thereby sufficiently appeared to be made within their jurisdiction: *Reg. v. Aldborough*, 13 Q. B. 190; 18 L. J. M. C. 81; 13 J. P. 331.

An indenture of a parish apprentice was properly allowed by a single police magistrate appointed under 2 & 3 Vict. c. 71: *Reg. v. St. George, Bloomsbury*, 16 Q. B. 1005; 20 L. J. M. C. 200; 15 J. P. 456.

An order under 56 Geo. 3, c. 139, must show on the face of it that the justices acted at the time within their jurisdiction. Where in the order two justices of the county of Middlesex, by whom it was made, were described as justices of "the said county," and in the margin were the words "Middlesex, to wit," and the order purported to be signed "at the board room of the Holborn Union Workhouse;" it was held that the court could not take judicial notice that the board room was in the county of Middlesex. The order being bad, no settlement by apprenticeship was gained: *Rex v. St. George, Bloomsbury*, 4 E. & B. 320; 24 L. T. 213; 1 Jur. (N.S.) 230; 24 L. J. M. C. 49; 19 J. P. 166.

The allowance of justices to an indenture binding a parish apprentice under 43 Eliz. c. 2, is a judicial act, and it must appear on the face of the allowance that the justices were at the time of granting it acting within their jurisdiction: *Staverton v. Ashburton*, 4 E. & B. 526; 24 L. J. M. C. 53; 19 J. P. 229.

The allowance of an indenture of apprenticeship by parish officers appeared on the face of it to be made by two justices of the county of Middlesex, and concluded, "given under our hands and seals, at the police office, Hatton Garden, the day and year first above written." The 10 Geo. 4, c. 44, s. 4, described the Holborn division as in the county of Middlesex, and including the liberty of Saffron Hill, &c. Held, that it sufficiently appeared that the allowance was made within the jurisdiction of the justices: *Reg. v. Holborn*, 6 E. & B. 715; 25 L. J. M. C. 110; 2 Jur. (N.S.) 571; 20 J. P. 693.

An articulated clerk to an attorney is an apprentice within the meaning of 3 Wm. & M. c. 11, s. 8, and may gain a settlement in a parish by service as such: *Clapham v. St. Pancras*, 2 L. T. (N.S.) 210; 24 J. P. 277, 613; 29 L. J. M. C. 141; 6 Jur. (N.S.) 700; S.C. *St. Pancras*, app., *Clapham*, resp. 2 E. & E. 742.

By a local Act certain property was vested in the guardians of the city of Canterbury, for the benefit of the poor of the city, and the guardians were required to give a bond to provide for and maintain 16 poor boys of the city, and to cause them to be instructed, &c., and to "put them and every of them, out apprentices, after they and every of them respectively should have attained their respective ages of 13 years, and

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before their said ages of 15 years." This Act was held not to authorize the guardians to apprentice a boy without his assent, especially if the boy was beyond the age of 15; and that, consequently, where the boy never executed the indenture, and was 17 when the guardians apprenticed him, the indenture was invalid, and the boy did not acquire a settlement under it: *St. Nicholas, Rochester v. St. Botolph Without, Bishopsgate*, 31 L. J. M. C. 258; 12 C. B. (N. S.) 645; 9 Jur. (N. S.) 101.

SETTLEMENT BY APPRENTICESHIP—INHABITANCY.

An apprentice by being bound and serving in an extra-parochial place, could not be removed there: *Clerkenwell v. Bridewell*, 1 Ld. Raym. 549; Carth. 515; Salk. 486, 487; Sett. & Rem. 43; Foley, 98.

An apprentice must reside forty days as an apprentice under the indenture, to gain a settlement: *Missenden v. Grimsfield*, Foley, 157.

A cobbler's apprentice, attending at his master's stall during the day time, and going on errands in the way of his business, is not a sufficient inhabitancy to gain him a settlement in the parish: *Rex v. St. Olave's, Jewry*, Bott.; Foley, 158; Sett. & Rem. 82; 1 Sess. Ca. 115; Str. 51.

A captain's apprentice, who lodges on board his ship in a different parish, is not a sufficient inhabitant of the parish to gain a settlement: *St. Mary, Colechurch v. Radcliffe*, Bott.; Str. 60; 1 Sess. Ca. 123; Sett. & Rem. 81; Fort. 306; Foley, 223.

An apprentice living forty days in a parish, to which his master went as a settled inhabitant, gained a settlement: *Ivinghoe v. Stonebridge*, Str. 265.

A residence of forty days by an apprentice may be intended, so as to gain a settlement: *Rex v. Cirencester*, Sett. & Rem. 119; Str. 579; 1 Sess. Ca. 279.

An apprentice who serves his master in one parish, and lodges with his father in another, although paid for by the master, does not gain a settlement in the master's parish: *St. John the Baptist v. St. James*, Bott.; Str. 594; Ld. Raym. 1371; Sett. & Rem. 118; Fort. 321.

An apprentice gains a settlement where he sleeps the last forty days, though his master have no settlement in the parish: *Stoke Fleming v. Berry Pomroy*, Bott.; Sett. & Rem. 65; 1 Sess. Ca. 88; Foley, 152.

If an apprentice serve in one place and reside in another, he gains a settlement in that place where he resides: *Rex v. St. Peter's on the Hill*, Bott.; Cald. 56, n.

An apprentice to the captain of a ship, who serves the last forty days on board while the ship is lying in harbour, gained a settlement in the parish within which the harbour is: *Rex v. Burton Bradstock*, Burr. S. C. 531.

An apprentice who marries during his term, serves his master by day in one parish, but sleeps at night in a different parish, gains a settlement where he lodged the last forty days: *Rex v. Castleton*, Burr. S. C. 569.

If the master die after the apprentice has served forty days, and he goes with the consent of his mistress before administration back to his father, but without any particular agreement or the indenture being delivered up, he gained a settlement in the place where the master lived: *Rex v. Chick*, Burr. S. C. 782.

A settlement might be gained by serving an apprenticeship to a certificate man in a third parish: *Rex v. Bishopside, High and Low*, Burr. S. C. 815.

Inhabitation at different periods, though a hiring and service for a year has intervened, may be connected so as to make forty days' residence under indentures, and the settlement shall be in that place where the pauper lodged the last night: *Rex v. Sandford*, Bott.

SETTLEMENT BY APPRENTICESHIP—INHABITANCY—*continued.*

If an apprentice live with his master forty days in A., then forty in B., and then one day in A., he is settled in A.: *Rex v. Brighthelmstone*, 5 *sect.* 7. T. R. 188.

The residence of an apprentice with his grandmother in a different parish from his master on account of illness, though with the consent of the master, is not referable to the apprenticeship so as to gain him a settlement in such parish: *Rex v. Barmby in the Marsh*, 7 East, 381.

An apprentice to a shipowner at A. gains a settlement by residence on board his master's ship for forty days in B., while the ship was staying and trading there: *Rex v. Topsham*, 7 East, 466.

An apprentice who went to lodge at his mother's in an adjoining parish to that of his master, while ill, but who continued to serve the master all the time by going errands and attending when wanted, gained settlement in the parish where he lodged: *Rex v. Stratford-upon-Avon*, 11 East, 176.

An apprentice, after serving most of his time with his master in S., obtained a subsequent settlement in H., by serving another master there for forty days by the direction of his first master, and being then dismissed by his second master, he, unknown to his first master, and without any intention of returning to his service again, lodged for one night in S., and then went and worked in a third parish for a month, till the expiration of his term; the settlement was not brought back to S. by such casual lodging of the pauper there: *Rex v. Smarsden*, 13 East, 452.

Where an apprentice, who worked and slept at his masters' works in C., at weekly wages, went with their knowledge on Saturdays and Sundays to R., and slept there, and returned to his work on Mondays, and was received by them, and on the Saturday afternoon before Shrove Tuesday (having the night before slept at C.), received his pay, and never returned again to the service, and slept that and the following night at R., but on quitting the works on Saturday had not formed any intention not to return, it was held that his settlement was at C., his service being ended on his quitting on Saturday: *Rex v. Ribchester*, 2 M. & S. 135.

A person residing in N. under a certificate from R., was bound apprentice to a master in N., and during greater part of his service, and on the last night of it slept in N., but in the course of his service, occasionally for two or three nights together, slept at an inn or on board of a barge in a third parish, and slept there more than 40 nights. His settlement was in R.: *Rex v. Rustington*, 6 M. & S. 396.

Where a master mariner having no immediate occasion for his apprentice's service, the vessel being then in dock, offered either to turn him over to another master for a time, or to let him go back to school and learn navigation; and accordingly did so, and resided above 40 days there. Held, that such residence was not a residence under the indenture, and no settlement was gained: *Rex v. St. Mary Breden, in Canterbury*, 2 B. & Ald. 382.

A parish apprentice and his master, being both on the permanent staff of the local militia, resided together with his master, and continued to serve him in B. for 40 days. This residence was sufficient to confer a settlement in B., notwithstanding that both were under the control of their superior officer the whole time: *Rex v. Chelmsford*, 3 B. & Ald. 411.

By an indenture of apprenticeship, it was stipulated that the master should provide meat, &c., during the term except in the winter seasons, when the ship should be laid by unrigged, during which time the apprentice was to be maintained by himself or friends, the master paying a com-

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pensation. The apprentice accordingly resided with his parents in B. for more than 40 days, not doing any work for his master during such residence. This was not a residence under the indenture, and conferred no settlement: *Rex v. Brotton*, 4 B. & Ald. 84.

An apprentice who lived and worked with his master in L., went home to his father's in R. every Saturday, and slept there every Saturday and Sunday night, and returned to his master on Monday morning. He returned and worked as usual on a Monday, and left in the evening and never returned. The sleeping in R. was not under the apprenticeship, and did not confer a settlement: *Rex v. Ilkeston*, 4 B. & C. 64.

An apprentice may gain a settlement by residing in a parish during his apprenticeship 40 days, though not within the compass of any one year: *Rex v. Aldstone*, 2 B. & Ad. 207.

Pauper was apprenticed to a farmer, living in A., and served him there, but before the expiration of his apprenticeship, the farmer having failed in business, placed pauper with another farmer in B., for nine months, when becoming ill and disabled from service, he returned to his first master in A. The latter having no accommodation for him, told him to go to his mother, who lived in A. He did so, and his first master a few days after promised his mother to remunerate her for taking care of pauper, who continued to reside with his mother for eight weeks, but did not work for his master. Held, that he gained a settlement by apprenticeship in A.: *Rex v. Linkenhorn*, 3 B. & Ad. 413.

An apprentice to a cork cutter, who lived at home with his father, doing no work for his master, but selling corks for him, and maintained by him, was held to have gained a settlement: *Rex v. Banbury*, 3 B. & Ad. 706.

Where the inhabitation of an apprentice, in the parishes of his second and third master, was connected with the apprenticeship, he gained settlements in those parishes: *Rex v. Banbury*, 5 B. & Ad. 176.

A residence of 40 days between the making of an agreement to dissolve an apprenticeship, and the actual dissolution thereof, is a residence under the apprenticeship, and confers a settlement: *Rex v. Gwinear*, 1 A. & E. 152; 3 L. J. M. C. 81; 3 N. & M. 297.

Service with a surviving partner was held, under the circumstances, not service under the indentures, so as to confer a settlement: *Rex v. St. Martin's, Exeter*, 2 A. & E. 655.

An apprentice used to work and sleep at B. during the week, returning on Saturdays to his father's at G., and sleeping there on the nights of Saturdays and Sundays. On the last day of service, on Wednesday, he left off work at 4 P. M. at B., and went to see his mistress at N., and then proceeded to G. and slept there that night: and it was held that G. was his place of settlement: *Reg. v. Elswick*, 3 L. T. (N. S.) 321; 7 Jur. (N. S.) 45; 30 L. J. M. C. 66; 24 J. P. 787.

Sleeping in a parish in furtherance of, and under the apprenticeship, would be a sleeping in a parish so as to confer a settlement in the parish in which the apprentice slept for the last night of his apprenticeship. When the sleeping at a particular place is not matter of mere indulgence, it is in pursuance of the apprenticeship. (*Rex v. Ilkeston*, 4 B. & C. 64.) If the apprentice sleeps the last night of his apprenticeship in what must be taken to be his ordinary lodging, the apprenticeship continued on that night: *Reg. v. Barton-upon-Irwell*, 32 L. J. M. C. 102; 9 Jur. (N. S.) 795; S. C. *Barton v. Hulme*, 27 J. P. n, 116; 7 L. T. (N. S.) 853; 3 B. & S. 662.

SETTLEMENT BY APPRENTICESHIP—DISCHARGE.

The bankruptcy of the master of an apprentice does not discharge the indenture, although the master absconded and delivered the indenture to the person whom the apprentice hired himself to as a yearly servant: *Decisions on sect. 7.*
Buckington v. Shepton Bechamp, Bott.; Sett. & Rem. 117; Str. 582; Ld. Raym. 1352; Foley 229; Fort. 321.

If indentures be exchanged between the master and the apprentice's father, with the consent of the apprentice, they are thereby virtually cancelled, and no settlement: *Rex v. St. Mary Kalendar*, Burr. S. C. 274.

An apprentice may gain a settlement by being hired and serving for a year subsequent to the death of the master; for by the master's death the indentures are discharged: *Rex v. Eakring*, Burr. S. C. 320.

Parish indentures cannot be discharged by an infant apprentice, for his consent for that purpose is of no validity: *Rex v. Austrey*, Burr. S. C. 441.

Indentures mutually given up by master and apprentice, are thereby virtually cancelled: *Rex v. Titchfield*, Burr. S. C. 511.

A parish apprentice bound out until he attained the age of 24, might after 21 cancel the indentures with the consent of his master without the consent of the parish officers: *Rex v. Ecclesall Bierlow*, Burr. S. C. 562.

The indentures of an infant apprentice may be discharged with the consent of his father and master: *Rex v. Weddington*, Burr. S. C. 766.

To vacate the indentures of an infant parish apprentice, it was necessary to obtain the consent not only of the master, but of two justices, and of the parish officers: *Rex v. Langham*, Cald. 126.

The assent of the parish officers was not necessary to the cancelling parish indentures after the apprentice attained 21; and therefore, if after the apprentice attained that age, he purchased of the master the remainder of his time, the apprenticeship was dissolved, although the indentures were neither delivered up nor cancelled: *Reg. v. Harberton*, Bott. 1 T. R. 139.

An infant apprentice leaving his master's service, and going into the King's service with his master's consent, did not discharge the indentures: *Rex v. Hindringham*, 6 T. R. 557.

It was questioned whether an infant could discharge his indentures; but if he could, the act of leaving the master's service and going into the service of another did discharge them: *Ashcroft v. Bertles*, 6 T. R. 652.

Indentures cannot be dissolved by an agreement of the apprentice with his master to purchase the remainder of his time, the indentures to remain with the master till the money was paid: *Rex v. Chipping Warden*, 8 T. R. 108.

Where an infant bound himself apprentice for seven years by indenture, to which he and the master were the only parties, and after serving some time in consequence of his master running away, procured the indentures to be given up, and hired himself as a yearly servant and served a year, he gained a settlement by hiring and service, for it was for the infant's benefit that he should be at liberty to put an end to the indenture: *Rex v. Mount Sorrell*, 3 M. & S. 497.

Where the mother of an apprentice whose time had not expired, applied to his master to give him up to her, and the master having consented to it, and all having agreed to part, the apprentice went away; but the indenture which was in the hands of a third person was never applied for, nor given up. Held, that the apprenticeship was not put an end to, although the master said he would have given up the indenture if he had had it in his possession at the time, and afterwards refused to take back the apprentice: *Rex v. Skeffington*, 3 B. & Ald. 382.

An infant bound himself apprentice for seven years, and served three of them; he then quarrelled with his master, and the latter offered to sell him the remainder of his time for 6*d.*, which the apprentice paid and went

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away, and bound himself to another master in another parish: held that he had no power to dissolve the first apprenticeship, and the second binding being invalid, no settlement could be gained by serving under it: *Rex v. Great Wigston*, 3 B. & C. 484.

SETTLEMENT BY APPRENTICESHIP—ASSIGNMENT.

An apprentice assigned gained a settlement with the second master: *Caistor v. Eccles*, 1 Ld. Raym. 683.

An apprentice may be bound to one person and serve another, and he gains a settlement in the parish where the service actually was: *Holy Trinity v. Shoreditch*, Str. 10.

Where an apprentice was bound to a master in one parish, but served by agreement another master in a different parish, his settlement was in the latter parish: *Allhallows-on-the-wall v. St. Olave*, Str. 554; 8 Mod. 169; Sett. & Rem. 114; Salk. 479.

The consent of the master is sufficiently signified by his hiring out the apprentice to the second master: *Rex v. St. George, Hanover Square*, Burr. S. C. 12; Str. 1001.

An apprentice, assigned by his master's widow before administration granted, and turned over by the assignee under a parol agreement to a third master, gains a settlement by service with such third master under the original indenture: *Rex v. East Bridgeford*, Burr. S. C. 133.

A parish apprentice might gain a settlement by serving 40 days in a different parish under an assignment: *Rex v. St. Petrox*, Burr. S. C. 248; 1 Wils. 96.

A parish apprentice was bound to A., and served part of his time, and then went with the consent of A. to live with B., he then ran away and lived with his mother, and was bound out by B. to C., with whom he resided the last 40 days. He gained a settlement in the parish in which he resided with C: *Rex v. Clapham*, Burr. S. C. 266.

A parish apprentice, whose master not having sufficient work to employ her, consented to her hiring herself as a servant to another person in a different parish, with whom she resided above 40 days, and then returned to her first master and resided with him the remaining eight days of her apprenticeship. She gained a settlement under the indenture in the parish in which the second master lived: *Rex v. Fremington*, Burr. S. C. 416.

An infant apprentice cannot gain a settlement under the indentures by hiring and service to a second master upon the supposed discharge of the indentures, although by the express consent of the original master: *Rex v. Austrey*, Burr. S. C. 441.

An apprentice working with several masters under a general license by the first master to serve where he would, gains no settlement thereby: *Rex v. St. Luke's Middlesex*, Burr. S. C. 542.

An apprentice may gain a settlement by serving 40 days in another parish with the consent of the assignee of the original master: *Rex v. Tavistock*, Burr. S. C. 578; W. Bl. 635; Cald. 128.

An apprenticeship dissolved by the master's telling his apprentice "he might go where he pleased," and giving up his indentures, no settlement was gained: *Rex v. Notton*, Burr. S. C. 629.

The place where an apprentice resides for the last 40 days is the place of his settlement, without regard to the service: *Rex v. Charles*, Burr. S. C. 706.

An apprentice may gain a settlement by serving a second master under a special agreement with the first, that he shall be at liberty to work for his own benefit: *Rex v. Offerton*, Burr. S. C. 802.

SETTLEMENT BY APPRENTICESHIP—ASSIGNMENT—*continued.*

The mere knowledge of the first master that his apprentice is working with another master, does not imply his assent to such service: *Rex v. Ideford*, Burr. S. C. 821. *Decisions on sect. 7.*

The assent of the executors of the first master to the service of the apprentice with a second master is sufficient: *Rex v. Stockland*, Doug. 70; Cald. 60.

The express consent by parol of a first master, to a service with a second master is for the purpose of settlement a legal assignment of an apprentice: *Rex v. Langham*, Cald. 126.

The consent of the first master to the assignment of the apprentice may be implied: *Rex v. Bradninch*, Bott.; Cald. 461.

The consent of the first master to a subsequent service is sufficiently expressed by giving the apprentice a character, with a view to induce the second master to take him: *Rex v. St. Mary, Lambeth*, Bott.; Cald. 533.

If the first master gives up the indentures to the apprentice, his consent that he shall serve a second master will not make such service a service under the indentures: *Rex v. Sandford*, 1 T. R. 281.

The consent of the first master may be given after the service with the second master has commenced: *Rex v. Bradstone*, Bott.

If an apprentice's first master gave him leave to get another master, and recommend him to a particular person in the same trade, and make an agreement with him accordingly; a service with such second master for two months previous to the first master's delivering up the indentures gives a settlement: *Rex v. Holy Trinity, in the Minories*, 3 T. R. 605.

If the consent of the executrix of the first master is in writing, it must be stamped as an agreement to render the service with the second master effectual: *Rex v. St. Paul's, Bedford*, 6 T. R. 452.

Where the master of an apprentice told him "that he had no further employment for him, and he might go where he pleased," and the apprentice being afterwards met by his master, and on being asked, said he was going to U., when the master, said he "might go there or where he pleased;" this was not such a particular assent of the original master to the service with U. as would enable the apprentice thereby to gain a settlement, though the indentures were not delivered up or cancelled: *Rex v. Crediton*, 1 East, 59.

An apprentice offered his master a guinea "to let him off," to which the master agreed, and was also to give him a suit of clothes when the guinea was paid, but the indentures were not delivered up or cancelled. The guinea not being paid the indentures still subsisted in law, and settlement might be gained by serving another master with the consent of the first: *Rex v. Shebbear*, 1 East, 73.

A master saying to a second master who took his apprentice, "I am glad of it, he was a bad lad and I could make nothing of him," was not such a consent to the particular service as would confer a settlement in the parish where the apprentice then lived with the second master: *Rex v. St. Helen, Stonegate*, 1 East, 285.

A parish apprentice who was bound by her original master to another master by a new indenture without reference to or recognition of the original indenture which still subsisted in law, did not gain a settlement by serving her new master as upon a constructive service of the original master under the first indenture: *Rex v. Christowe*, 11 East, 95.

What is evidence for which the sessions ought to presume that the widow of the master of an apprentice was executrix, and capable of assigning the apprentice: see: *Rex v. Barnsley*, 1 M. & S. 377.

A parish apprentice was before the passing of 18 Geo. 3, c. 47, bound till 24, and served till nearly attaining 21, when his master told him that he might

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SETTLEMENT BY APPRENTICESHIP—ASSIGNMENT—*continued.*

leave him and go where he liked and shift for himself; but if he could not provide for himself he might return to him; upon which the apprentice quitted, and when about four months past 21 bound himself by indentures to another master for three years and served him the three years. He did not acquire a settlement by service under the second indenture: *Rex v. Bow, otherwise Nymett Tracey*, 4 M. & S. 383.

The master of several apprentices on quitting business proposed to assign all of them without mentioning their names or number to C., but no assignment was ever made. One of them was afterwards hired by C. as a servant for 51 weeks, and her master on meeting her expressed his approbation of her having gone into the service of C. There was not a particular assent of the original master to the second service, and therefore the relation of master and apprentice never subsisted between C. and the pauper, and no settlement was gained: *Rex v. Ashby-de-la-Zouch*, 1 B. & Ald. 116.

Where a parish apprentice was assigned by his original master to J. S. by an instrument in writing, but there was no consent of two justices; this was not a lawful assignment under 32 Geo. 3, c. 57, s. 17, but it was sufficient to show the consent of the first master to the service to J. S., and consequently such service was good as a service under the original indentures, and conferred a settlement: *Rex v. Barleston*, 5 B. & Ald. 780.

An apprentice who hired himself to another master, his mistress saying she was not against it, did not gain a settlement, as there was no particular assent of the mistress: *Rex v. Whitchurch*, 1 B. & C. 575.

Whether a service as apprentice with a second master during the remainder of the term be with the consent of the first or not, the apprentice sleeping for the last three nights in a parish settled him in that parish, though the first master did not know of his sleeping there: *Rex v. Iddlesleigh*, 4 D. & R. 332.

Circumstances which do not constitute a service under an apprenticeship to two brothers, partners, after the dissolution of the partnership: *Rex v. St. Martin's, Exeter*, 2 A. & E. 655; 4 N. & M. 388; 4 L. J. M. C. 54.

Settlement by apprenticeship could not be gained by service under a second master with the assent of the first, unless the assent was given to the particular service; and a ratification by the master after 1 Oct., 1816, (see 56 Geo. 3, c. 139, s. 9,) without consent of justices could not render the prior service valid for the purpose of settlement: *Rex v. Maidstone*, 5 L. J. M. C. 119; 5 A. & E. 326; 6 N. & M. 545.

An apprentice may gain a settlement by serving a second master with the assent of the first, although the second never knew of the apprenticeship, if the service be in other respects a good service under the indenture: *Rex v. Sandhurst*, 6 A. & E. 130; 6 L. J. M. C. 57; 1 N. & P. 296.

A master hiring out of an apprentice to another and receiving a stipulated weekly sum out of his earnings is a "placing out," or "putting away" of the apprentice within the meaning of 56 Geo. 3, c. 139, s. 9, and no settlement is gained under the apprenticeship: *Reg. v. Wainfleet, All Saints*, 11 A. & E. 656; 9 L. J. M. C. 31; 3 P. & D. 73.

SETTLEMENT BY APPRENTICESHIP—EVIDENCE.

The sessions may receive parol evidence of an apprenticeship in order to draw their conclusion of the fact that the binding was by indenture: *Rex v. East Knoyles, Burr*. S. C. 151.

The binding of an apprentice can only be proved by the indenture. If it be unstamped it cannot be given in evidence: *Rex v. Holbeck, Burr*. S. C. 198.

An indenture of apprenticeship unstamped is void and cannot be given in evidence: *Rex v. Llanvair Dyffryn Clwyd, Burr*. S. C. 236.

SETTLEMENT BY APPRENTICESHIP—EVIDENCE—*continued.*

Parol evidence cannot be received of an indenture of apprenticeship: *Decisions on Rex v. St. Helen's-in-Abingdon*, Burr. S. C. 292, 735. sect. 7.

The deposition of a soldier under the Mutiny Act, and the evidence of his wife of what she heard him say, were held to be sufficient evidence to prove an apprenticeship: *Rex v. St. Michael's, Bath*, Bott. 5 T. R. 704.

An indenture of apprenticeship coming out of the hands of the opposite party after notice to produce it must be *prima facie* taken to be duly executed, and must be received in evidence without proof of the execution: *Rex v. Middlezoy*, 2 T. R. 41.

Parol evidence may be given to show that an indenture once existed, and that it is lost or destroyed: *Rex v. Castleton*, 6 T. R. 236.

An agreement between the first and second master cannot be received in evidence if not stamped, nor can parol evidence thereof be given: *Rex v. St. Paul, Bedford*, 6 T. R. 452.

But parol evidence of an independent fact may be received, though it show that an unstamped agreement intended an apprenticeship: *Rex v. Laindon*, 8 T. R. 379.

The court will presume that an indenture of apprenticeship was properly stamped after a lapse of thirty years, the pauper having served his seven years under it, when it was given up to him and proved to be lost, and when the parish in which he was settled under it, had relieved him for the last twelve years: *Rex v. Long Bugby*, 7 East, 45.

In an indenture of apprenticeship a covenant by the apprentice to allow his master 2s. per week, and to have wages, and provide for himself during the term, did not require the additional stamp under 44 Geo. 3, c. 98, upon an indenture where a sum of money is contracted for with the apprentice: *Rex v. Bradford*, 1 M. & S. 151.

A statement of a pauper before his death that when the indenture expired it was given to him, and that he burnt it long since, was held sufficient to let in parol evidence of the contents of the indenture: *Rex v. Morton*, 4 M. & S. 49.

The rule which requires the subscribing witness to be produced or his absence accounted for, applies as well to settlement cases as to others: *Rex v. Harringworth*, 4 M. & S. 350.

Declarations of one who might have been called as a witness to prove an indenture of apprenticeship are not admissible in evidence, and parol evidence of the contents of the indenture are not admissible: *Rex v. Denio*, 7 B. & C. 620.

In the case of a parish apprentice, it is the duty of the overseers if the indenture come into their possession to deposit it in the parish chest, and the presumption is, if it be not there that it is lost or destroyed, and therefore secondary evidence in the particular case of the execution and contents of the indenture was admissible: *Rex v. Stonebridge*, 8 B. & C. 96.

Illustration of what is sufficient evidence to warrant the sessions in presuming a legal binding and service as an apprentice, so as to confer a settlement: *Rex v. St. Marylebone*, 4 D. & R. 475.

Secondary evidence of the contents of an indenture of apprenticeship thirty-seven years old, and supposed to be lost, is admissible, if reasonable diligence has been used to obtain the primary evidence: *Rex v. East Farleigh*, 6 D. & R. 147.

An unstamped assignment of a parish apprentice stated that D. E., the new master, in consideration of 3*l.* 10*s.* paid by H., the old master, agreed to accept the apprentice, &c. Parol evidence was admitted to show that the money paid was parish money, and therefore that no stamp was necessary: *Rex v. Llangunnor*, 2 B. & Ad. 616.

The master of an apprentice having had the indenture in his possession

SETTLEMENT BY APPRENTICESHIP—EVIDENCE—*continued.*

*Decisions on
sect. 7.*

failed in business, and an attorney took the management of his affairs and custody of his papers, which he inspected, but did not find the indenture: held, that this after the master's death was sufficient to let in secondary evidence of the indenture, though his widow was living, and no inquiry had been made of her respecting it: *Rex v. Piddlehinton*, 3 B. & Ad. 460.

Where an instrument is not required by law to be stamped within a particular time of its execution, the court upon its being offered in evidence will not inquire when the stamp was affixed, nor, if a penalty was incurred, whether the proper penalty was paid on the stamping: *Rex v. Preston*, 5 B. & Ad. 1028.

The provision in 8 Anne, c. 9, ss. 36, 37, 38, as to the time for stamping indentures of apprenticeship, was not repealed by 55 Geo. 3, c. 184: *Rex v. Church Hulme*, 5 B. & Ad. 1029, *n.*

Evidence of the widow of a deceased apprentice that he told her that he received his indentures from his master and wore them out in his pocket, is not admissible: *Rex v. Rawdon*, 2 A. & E. 156.

An indenture of apprenticeship was void under 8 Anne, c. 9, s. 39, if it did not truly state the sum paid or contracted for with the apprentice: *Rex v. Amersham*, 4 A. & E. 508; 5 L. J. M. C. 49; 6 N. & M. 12.

The court will not grant a *mandamus* calling upon parish officers, appellant against an order of removal, to produce the pauper's indentures of apprenticeship (sworn to be in their custody,) at the instance of the respondents, in order that an assignment therein endorsed may be stamped so as to be evidence at the hearing: *Rex v. Westoe*, 5 A. & E. 786; 6 L. J. M. C. 62.

The court will intend "the said Elizabeth Melhuish" to mean "Elizabeth Matthews" in an assignment of a parish apprentice, and hold the assignment good for the purpose of settlement: *Rex v. Exminster*, 6 A. & E. 598; 6 L. J. M. C. 82; 1 N. & P. 603.

An assignment of an indenture of apprenticeship on which only a 1*l.* stamp was affixed is receivable in evidence, though the assignment contained covenants for supplying the apprentice with food, and even for extending the period of the apprenticeship: *Morris v. Cox*, 2 M. & G. 659; 3 Scott, 116.

The examination of a pauper stated, that when fourteen years old he "was put out an apprentice by covenant indenture" to A. B., and went to and resided with him in C., under the indenture, for five years, when pauper's mother purchased his time out, and the indenture was destroyed: held, that for the case of common binding this statement was sufficiently particular, and that it was not to be inferred from the language used that the binding might have been by a parish: *Reg. v. Cumberworth Half*, 5 Q. B. 484; 13 L. J. M. C. 49; 8 J. P. 500.

If the person bound be named in the indenture "John" instead of "Joseph" it will not necessarily be such an ambiguity as will render the binding void; and the pauper may prove the binding in his examination, so as to establish a settlement by apprenticeship: *Reg. v. Wooldale*, 6 Q. B. 549; 14 L. J. M. C. 13; 9 J. P. 85.

The justices and sessions are to judge for themselves whether proof of *bonâ fide* search for a missing indenture of apprenticeship is satisfactory, and the court will not disturb the conclusion without seeing that it was one which they could not legitimately come to: *Reg. v. Kenilworth*, 7 Q. B. 642; 14 L. J. M. C. 460; 9 J. P. 680.

The following is evidence to prove a binding as an apprentice: "In or about May, 1831, the pauper was by his own consent, his father and mother being dead, bound by indenture of apprenticeship, bearing date," &c., "which was duly stamped and executed," to serve, &c., "as an apprentice for the term of six years, then next following. I saw the indenture

SETTLEMENT BY APPRENTICESHIP—EVIDENCE—*continued.*

executed:" *Reg. v. St. Ann, Westminster*, 8 Q. B. 561; 16 L. J. M. C. 33; 11 J. P. 167. *Decisions on sect. 7.*

It is not sufficient proof to put in the indenture itself and verify the attestation in the case of a binding by parish officers; the order for binding and the allowance of the indenture must also be severally proved, and a due making, so proved, of such order and allowance must appear by the examinations sent with the copy of the order of removal: *Reg. v. Chiswick*, 10 Q. B. 241; 8 J. P. 758.

The signature of the justices would be evidence of an assent under 42 Geo. 3, c. 46, s. 1, but the sessions cannot presume from the facts and documents an order or allowance by the justices, under 56 Geo. 3, c. 139, s. 1: *Reg. v. East Stonehouse*, 10 Q. B. 230; 16 L. J. M. C. 49; 11 J. P. 227.

An indenture duly allowed under 56 Geo. 3, c. 139, s. 1, recited that it was made by virtue of an order under the hands and seals of A. L. and J. N. C., justices in and for the city of —, &c., was good primary evidence of the order for binding, which was not produced: *Reg. v. Stainforth*, 17 L. J. M. C. 25; 11 Q. B. 66; 12 J. P. 105.

Where the sessions decide that sufficient search had not been made for an agreement to let in secondary evidence of its contents, the court will not interfere with their decision unless it see clearly that the sessions were wrong: *Reg. v. Saffron Hill*, 22 L. J. M. C. 22.

After due, but fruitless search, for an indenture, proof that a deceased person more than sixty years ago, served A. in the apparent position of an apprentice, raises the presumption that he was bound apprentice by indenture, and is sufficient to sustain a settlement by apprenticeship. The statement of a deceased person respecting his indenture of apprenticeship is not admissible to prove that the deed ever existed: *Reg. v. Fordingbridge*, 31 L. T. 197; 22 J. P. 383; 23 J. P. 38; 4 Jur. (N. S.) 951; 27 L. J. M. C. 290; E. B. & E. 678.

Hearsay evidence is sometimes admissible to satisfy the mind of the court upon a preliminary inquiry, although the facts proved would not be evidence in the cause. Where at the hearing of an appeal against the removal of a pauper, it was necessary to prove an apprenticeship, and in order to show that a proper and reasonable search had been made for the indenture, it was proposed to ask witnesses what inquiries they had made of persons who were supposed to be likely to have it in their possession, and also what answers were given to these inquiries, and the sessions refused to allow such evidence to be given: held, that such questions and answers were receivable to prove that the search made was reasonable: *Reg. v. Braintree*, 32 L. T. 90; 4 Jur. (N. S.) 1238; 28 L. J. M. C. 1; 1 E. & E. 51.

Upon a question whether G. W. had acquired a settlement by service as a parish apprentice to P., it was proved that in 1824 he and his father were taken by the overseers before the justices; that P. and the overseers were there; that papers were drawn up; that the justices asked the father whether he had any objection to his son being bound apprentice to P.; and that G. W. went the next day to P., and that he remained with him two or three years. It also appeared from the register book that one G. P. W. had, in 1824, been bound apprentice to P. The sessions from these facts inferred that G. W. had been duly bound a parish apprentice to P., and it was held that they were right in drawing such inference: *Reg. v. Broadhempston*, 28 L. J. M. C. 18; 32 L. T. 145; 1 E. & E. 154; 5 Jur. (N. S.) 267; 22 J. P. 753.

Secondary evidence was admitted of the contents of an indenture of apprenticeship, to prove a settlement by apprenticeship, without showing that the papers of the master had also been examined, as the presumption would be, after so long a period as had elapsed, that as the apprentice was alone interested in the preservation of the deed, the instrument, if not found with him, was lost: *Reg. v. Hinckley*, 8 L. T. (N. S.) 270; 32 L. J. M. C. 158; 9 Jur. (N. S.) 1054; 3 B. & S. 885.

Appeal to
quarter ses-
sions
Order final.

VIII. Provided always and be it hereby enacted that if any person or persons shall find him her or themselves aggrieved by any determination which any justice or justices of the peace shall make in any of the cases abovesaid the said person or persons shall have liberty to appeal to the next general quarter sessions of the peace to be held for the said county riding or division city or town corporate who upon full hearing of the said appeal shall have full power finally to determine the same (a).

(a) See 4 & 5 Will. 4, c. 76, s. 83.

POOR REMOVAL—ORDER OF SESSIONS ON APPEAL.

Decisions on
sect. 8.

The sessions, on hearing an appeal against an order of removal, may adjudge the pauper to be settled in any of those parishes that are parties to the order: *Rex v. Colliton*, Carth. 221.

A pauper appealed against an order of removal, and the sessions, without expressly vacating it, made an order to return the pauper to the parish from which he was removed—this latter order was affirmed as vacating by implication the order appealed against: *Rex v. Hartfield*, Carth. 222; Comb. 478.

An order of sessions made upon appeal is good, though it do not state that it was made on the appeal of the party aggrieved: *Rex v. Almanbury*, Str. 96.

The sessions may affirm or quash an order of removal, but cannot supersede it and make a new order: *Rex v. Oswell and Woking*, Salk. 472.

The sessions cannot adjudge the settlement of a pauper to be in a third parish: *Rex v. Anner*, Salk. 475.

The sessions cannot at a subsequent sessions make an order to review a case on which they have adjudicated at a previous sessions: *Rex v. Cuckfield*, Salk. 477; Comb. 416.

The sessions have no authority to make an original order of removal: *Rex v. Bond*, 2 Show. 503; S. P. 2 Salk. 479.

The sessions cannot make a new order vacating a former order at any time during the same sessions: *St. Andrew, Holborn v. St. Clement Danes*, Salk. 494.

An appeal may be adjourned from one quarter sessions to another: *Rex v. Kings Langley*, 1 Ld. Raym. 481; Salk. 605.

The sessions have only power to affirm or quash an order of removal; they cannot make a new order: *Rex v. Milverton*, Mod. 10.

The sessions cannot affirm an order that has been previously quashed during the sessions: *Battersea v. West Ham*, 5 Mod. 396.

The sessions, if the justices present are equally divided, cannot make any order, but should enter continuance till the next sessions, in order that the court may again proceed with the appeal: *Rex v. Westmorland JJ.*, 2 Sess. Ca. 352.

The authority of the sessions is final as to matters of fact: *Rex v. Preston*, Burr. S. C. 77.

The sessions cannot confirm an order except upon appeal: *Rex v. Leverington*, Burr. S. C. 276.

The sessions, with the consent of the parties, may refuse the consideration of an appeal: *Rex v. Northampton JJ.*, Cald. 30.

As to what record of the proceedings of a court of quarter sessions would be proper evidence of an order of sessions, see *Reg. v. Yeaveley*, 8 A. & E 806; 8 L. J. M. C. 9.

POOR REMOVAL—ORDER OF SESSIONS ON APPEAL—*continued.*

An order of removal was at the instance of the removing parish, and after the pauper had been removed, and an appeal lodged at sessions, superseded by an order of the removing justices, which recited, that the removing parish had discovered the original order to be founded on an incorrect examination: held, "that the *supersedeas* was too late, and that the appellants had a right to insist on the appeal being heard." The sessions having refused to hear it, a *mandamus* went: *Reg. v. Middlesex JJ.*, 11 A. & E. 809; 9 L. J. M. C. 59; 3 P. & D. 459. *Decisions on*
sect. 8.

Where the sessions have decided that grounds of appeal against an order of removal are insufficiently stated, and confirmed the order without going into the case, that is a decision on a preliminary point, and not on the merits; and the court will therefore compel them to hear, by *mandamus*, if their decision is wrong: *Reg. v. Carmarthenshire JJ.*, 11 L. J. M. C. 3; 2 Q. B. 355.

Upon an application for a *mandamus* to enter continuances and hear an appeal, the court being of opinion that the sessions had rightly disposed of the case upon the facts, refused to interfere, although the reasons on which the decision rested were not satisfactory: *Reg. v. York W. R. JJ.*, 11 L. J. M. C. 57; 2 Q. B. 705.

A rule of practice of a court of quarter sessions, that whenever an appeal against an order of removal shall be entered and respited, due notice thereof shall be given by the appellant to the respondent parish, is void; and where the sessions had dismissed an appeal for want of such notice, the court granted a *mandamus* to enter continuances and hear the appeal: *Reg. v. Surrey JJ.*, 3 N. S. C. 531.

A notice of appeal against an order of removal, by mistake stated the county instead of the borough sessions, and a correct notice was afterwards delivered, but too late. At the borough sessions intended, an application was made to enter and respite the appeal, and the deputy recorder reserved the motion, subject to the recorder thinking fit to grant it, and the latter at the next sessions refused it. Under these circumstances the court held that no *mandamus* lay to compel the recorder to hear the appeal: *Reg. v. Berwick*, 7 L. T. (N. S.) 670; 27 J. P. 87.

POOR REMOVAL—APPEAL TO WHAT SESSIONS.

An order of removal was made on 21st May, 1825, and suspended the same day. No notice of the order was received by the settlement parish till 12th August, 1826. The suspension was taken off on 24th January, 1831, and costs ordered; and the order was served on 16th February, 1831. On appeal it was found that the first order was not served within a reasonable time; but it was not therefore void, but voidable only by appeal; and the parish ought to have appealed to the next practicable sessions after it had notice of the original order: *Rex Penkridge*, 3 B. & Ad. 538.

Notice of an order of removal was served on 8th June, 1836. The next sessions began 28th June. The practice of the sessions required fourteen days notice of appeal, no notice being given, the pauper was removed 29th June. Held, that an appeal lay to the next October sessions: *Rex v. Cornwall JJ.*; *Kenwyn v. Probus*, 6 A. & E. 895; 6 L. J. M. C. 118; 1 N. & P. 144.

Under the circumstances of the case it was held upon an application for a *mandamus* to the justices to enter continuances and hear an appeal, that the sessions in October, held next after the 7th October, when notice of appeal for the next sessions was received by the respondents, were the next practicable sessions, and that the Epiphany sessions were right in refusing to hear the appeal. The next practicable sessions are the sessions at which there might be a trial of the appeal by reasonable diligence; but the appellant parish is not to be guilty of laches and

Churchwarden
to receive a
person re-
moved by
warrant of two
justices of
peace.

Penalty 5*l*.

Distress.

Want of dis-
tress ;
imprisonment.

IX. And be it further enacted that if any person be removed by virtue of this Act from one county riding city town corporate or liberty to another by warrant under the hands and seals of two justices of the peace the churchwardens or overseers of the poor of the said parish or town to which the said person shall be so removed are hereby required to receive the said person (*b*) and if he or they shall refuse so to do he or they so refusing or neglecting (upon proof thereof by two credible witnesses upon oath before any justice of the peace of the county riding city or town corporate to which the said person shall be [so*] removed) shall forfeit for each offence the sum of five pounds to the use of the poor of the parish or town from which the said person was removed to be levied by distress and sale of the offenders or offenders goods by warrant under the hand and seal of any justice of the peace of the county riding city or town-corporate to which such person was removed to the constable of the parish or town where such offender or offenders dwell which warrant the said justice is hereby empowered and required to make the overplus if any be to be returned to the owner or owners and for want of such sufficient distress then the said justice shall commit the said offender or offenders to the common gaol of the said county riding city or town corporate or liberty there to remain without bail or mainprise for the space of forty days

(*b*) See 9 & 10 Vict. c. 66, s. 7.

[*] Interlined on the roll.

POOR REMOVAL—ORDER OF SESSIONS ON APPEAL—*continued*.

*Decisions on
sect. 8.*

delay, and so put off the sessions: *Reg. v. Peterborough JJ.*, 26 L. J. M. C. 153; 3 Jur. (N. S.) 887; 7 E. & B. 643; 22 J. P. 20.

POOR REMOVAL—COSTS.

The costs of appeals against orders of removal which were quashed, were not ascertained during the sitting of the court, but were afterwards taxed by the clerk of the peace: held, that the taxation was not irregular: *Reg. v. Westmorland JJ.*, 12 L. J. M. C. 113.

If an order of removal be wrongly made and suspended, and be not appealed against, and an order for costs made, when the suspension is taken off the justices are bound to enforce such order, any objection to it being a subject of appeal: *Re Williams*, 2 E. & B. 84; 22 L. J. M. C. 125; 17 J. P. 519; 17 Jur. 763.

POOR REMOVAL—INDICTMENT.

An indictment lay against an overseer for not receiving a pauper removed by order of two justices: *Rex v. Davis*, Say. 163.

It is not an indictable offence for an overseer (without fraud or menace) to remove a pauper under an order after it has been confirmed on appeal to the sessions, but subject to a case for the decision of the Queen's Bench, and before its final determination by that court: *Reg v. Cooper*, 18 L. J. M. C. 16; 3 N. S. C. 346.

In case of overseers refusing to receive a pauper removed under an order of justices, the proper remedy is by indictment, and the court will not grant a *mandamus* to compel the overseers to receive the pauper: *ex parte Down-ton*, 27 L. J. M. C. 281; 8 E. & B. 856.

X. Provided always and be it hereby enacted that all such persons who think themselves aggrieved with any such judgment of the said two justices may appeal to the next general quarter sessions of the peace to be held for the county riding city town-corporate or liberty from which the said person was so removed (c). Appeal to quarter sessions.

XI. And whereas many inconveniences do daily arise in cities towns corporate and parishes where the inhabitants are very numerous by reason of the unlimited power of the churchwardens and overseers of the poor who do frequently upon frivolous pretences (but chiefly for their own private ends) give relief to what persons and number they think fit and such persons being entered into the collection bill do become after that a great charge to the parish notwithstanding the occasion or pretence of their receiving collection oftentimes ceases by which means the rates for the poor are daily increased contrary to the true intent of a statute made in the forty third year of the reign of Her Majesty Queen Elizabeth intituled An Act 43 Eliz. c. 2. for the Relief of the Poor. For remedying of which and preventing the like abuses for the future be it therefore enacted, that from and after the [*] first day of March there shall be provided and kept in every parish (at the charge of the same parish) a book or books wherein the names of all such persons who do or may receive collection shall be registered with the day and year when they were first admitted to have relief and the occasion which [brought †] them under that necessity. And that yearly in Easter week (or as often as it shall be thought convenient) the parishioners of every parish shall meet in their vestry or other usual place of meeting in the same parish before whom the said book shall be produced and all persons receiving collection to be called over and the reasons of their taking relief examined and a new list made and entered of such persons as they shall think fit and allow to receive collection and that no A register to be kept of the admittance of the poor. Parishioners yearly in Easter week &c. to make a list of their poor.

(c) See 54 Geo. 3, c. 170, s. 10, and [*] said O.
4 & 5 Will. 4, c. 76, s. 13. [†] Interlined on the roll.

ORDER OF JUSTICES TO RELIEVE.

No appeal lay from an order of justices under 3 Wm. & M. c. 11, s. 11, to relieve a pauper: *Rea v. North Shields*, 1 Doug. 331; Cald. 68. *Decisions on sect. 11.*

MEANING OF PARISHIONER.

A man renting a house lying in two parishes, is a parishioner where his bed is and where he lodges; but where a man has a shop in one parish and lodges in another, he is a parishioner where he drives his trade: *Temp. Parker, C. J., 1710; Sett. & Rem. 1.*

Parishioners is a very large word, taking in not only inhabitants of the parish, but persons who are occupiers of lands that pay the several rates and duties, though they are not *resiant*, nor do contribute to the ornaments of the church. Inhabitants is a still larger word, taking in housekeepers, though they are not rated to the poor; it takes in also persons who are not housekeepers, as for instance such who have gained a settlement, and by that means become inhabitants; *per Lord Hardwicke, C. : Attorney-General v. Parker, 3 Atte. 577.*

None but those other person be allowed to have or receive collection at the in the list to charge of the said parish but by authority under the hand of receive alms, one justice of the peace residing within such parish or (if none except by be there dwelling) in the parts near or next adjoining or by order of jus- order of the justices in their respective quarter sessions except tice, &c. in cases of pestilential diseases plague or small pox for and Exception. in respect of such families only as are or shall be therewith infected (*d*).

* * * * *

(*d*) And see 9 Geo. 1, c. 7, s. 2, and 4 & 5 Will. 4, c. 76, ss. 54, 55.

5 & 6 WILL. & M. CHAP 11.

Rot. Parl. p. 3.
nu. 4.

An Act to prevent Delays of Proceedings at the Quarter Sessions of the Peace (*a*).

21 Jac. 1, cc.
3, 23.
13 & 14 (14)
Car. 2.
22 Car. 2,
Reasons for
passing this
Act.

WHEREAS it is experienced that notwithstanding the statutes made in the one and twentieth year of the reign of King James the First and in the thirteenth and fourteenth and two and twentieth years of King Charles the Second concerning the granting of writs of *certiorari* to remove indictments of riots forcible entry assault and battery and other presentments and indictments out of the courts of the general or quarter sessions of the peace in the counties or places wherein such indictments have been found and proceedings thereupon recorded into their Majesty's Court of King's Bench divers turbulent contentions lewd and evil disposed persons fearing to be deservedly punished where they and their offences are well known have not only obtained writs of *certiorari* for removing such indictments found against them as aforesaid but also indictments for sundry other trespasses frauds nuisances contempts and misdemeanors after issue joined and the prosecutors attending with their counsel and witnesses to try the same before the said justices of the peace in their said sessions to be great discouragement of the prosecutors and of such constables and other officers as according to their duty present persons for those and such like trespasses offences and misdemeanors. For remedy whereof and that such offenders may be brought to condign punishment be it enacted by the King's and Queen's most excellent Majesties by and with the advice and consent of the lords spiritual and temporal and commons in this present parliament assembled and by [the*] authority of the same that in term time no writ of *certiorari* whatsoever, at the prosecu-

(*a*) See 8 & 9 Will. 3, c. 33, by ss. 1 and 2; and 12 & 13 Vict. c. which this Act is made perpetual; and 103, s. 13.
5 Geo. 2, c. 19, ss. 2 and 3; 13 Geo. [*] Interlined on the roll.
2, c. 18, s. 5; 5 & 6 Will. 4, c. 33,

tion of any party indicted be hereafter granted awarded or directed out the said Court of King's Bench to remove any such indictment or presentment of trespass or misdemeanor before trial had from before the said justices in the said courts of general or quarter sessions of the peace unless such *certiorari* shall be granted or awarded upon motion of counsel and by rule of court made for the granting thereof before the judge or judges of the said Court of King's Bench sitting in open court and that all the parties indicted prosecuting such *certiorari* before the allowance thereof shall find two sufficient manucaptors who shall enter into a recognizance before one or more justices of the peace of the county or place in the sum of twenty pounds with condition at the return of such writ to appear and plead to the said indictment or presentment in the said Court of King's Bench and at his and their own costs and charges to cause and procure the issue that shall be joined upon the said indictment or presentment or any pleas relating thereunto to be tried at the next assizes to be held for the county wherein the said indictment or presentment was found after such *certiorari* shall be returnable if not in the cities of London Westminster or county of Middlesex And if in the said cities or county then to cause or procure it to be tried the next term after wherein such *certiorari* shall be granted or at the sitting after the said [term if the Court of King's Bench shall not appoint any other time for the trial thereof and if any other time shall be appointed by the court then at such other time*] and to give due notice of such trial to the prosecutor or his clerk in court and that the said recognizance or recognizances taken as aforesaid shall be certified into the said Court of King's Bench with the said *certiorari* and indictment to be there filed and the name of the prosecutor (if he be the party grieved or injured) or some public officer to be indorsed on the back of the said indictment and if the person prosecuting such *certiorari* being the defendant shall not before allowance thereof procure such manucaptors to be bound in a recognizance as aforesaid the justices of the peace may and shall proceed to trial of the said indictment at the said sessions notwithstanding such writ of *certiorari* so delivered (c).

Certiorari in term-time grantable only upon motion.

Recognizance given that the issue be tried next assizes.

If not in London and Westminster, and county of Middlesex; and if in the said cities and county;

proceedings.

Certiorari granted without recognizance, void.

II. And be it further enacted that if the defendant prosecuting such writs of *certiorari* be convicted of the offence for which he was indicted that then the said Court of King's Bench shall give reasonable costs to the prosecutor if he be the party grieved or injured or be a justice of the peace mayor bailiff constable headborough tythingman churchwarden or overseer of the poor or any other civil officer who shall prosecute upon the account of any fact committed or done that concerned him or them as officer or officers to prosecute or present which costs shall be taxed according to the course of the said court and that the prose-

Costs.

[*] Annexed to the original Act in a separate schedule.

(c) See 12 & 13 Vict. c. 103, s. 13.

Recovery of costs.

Recognizance not discharged till costs paid.

Certiorari how grantable in vacation.

cutor for the recovery of such costs shall within ten days after demand made of the defendant and refusal of payment on oath have an attachment granted against the defendant by the said court for such his contempt And that the said recognizance shall not be discharged till the costs so taxed shall be paid.

III. Provided always and be it enacted by the authority aforesaid that in any of the vacations writs of *certiorari* may be granted by any of the justices of their Majesties Court of King's Bench whose names shall be indorsed on the said writ and also the name of such person at whose instance the same is granted and that the party or parties indicted prosecuting such *certiorari* shall before the allowance of such writ or writs of *certiorari* find such sureties in such sum and with such conditions as are before mentioned and specified in this present Act.

CERTIORARI.

Decisions on sect. 2.

A poor rate cannot be removed by *certiorari*; the remedy being by appeal: *Rex v. Uttoxeter*, Bott. Str. 932; 1 Barnard, 443; 1 Sett. Ca. 150; Foley, 23; Hard. 117.

For if a poor rate could be removed by *certiorari*, the poor might be unprovided for while the question was depending: *Rex v. Shrewsbury JJ.*, Str. 975; 2 Barnard, 272; 2 Keb. 246.

Certiorari will however lie to remove orders on appeals against poor rates: *Rex v. Warwick, Borough of*, Str. 991; see also 3 Mod. 229; 1 Salk. 145, 148; Ld. Raym. 469; 3 Burr. 1458.

Certiorari will not lie for other than judicial acts: *Rex v. Lediard*, Sayer. 6; *Rex v. Lloyd*, Cald. 309.

The return to a *certiorari* to bring up an order of sessions, should not set out more than the order itself, for the court will not look to any other matter that may be set out: *Reg. v. Abergele*, 8 A. & E. 394; 7 L. J. M. C. 109.

A rate on the face of it good, and the grounds of objection to it being matter of appeal, the court will not grant a *certiorari* to bring it up to be quashed: *Reg. v. Middlesex JJ.*, 8 L. J. M. C. 85.

The rule that a *certiorari* to remove an order for the purpose of quashing it ought not to issue until the time for appealing against the order has expired, applies only where the *certiorari* is prayed for by the party in whose favour the order is made: *Reg. v. Willatts*, 7 Q. B. 516; 14 L. J. M. C. 157; 9 J. P. 361.

An order of removal against which there has been no appeal to the quarter sessions, may be brought up by *certiorari* for defects appearing on the face of it: *Reg. v. Blathwyat*, 15 L. J. M. C. 48; 10 J. P. 231.

COSTS.

Decision on sect. 3.

A child six years old was found wandering in the parish of S. within the West London Union. It appeared to be destitute and to have been assaulted and very ill-used. It was received into the union workhouse and there maintained chargeable to S. On being taken before two aldermen they urged the guardians of the union to undertake the prosecution of the person who appeared to have ill-used the child. The guardians did so; the defendant removed the case into the court of Queen's Bench by *certiorari* and was convicted: held, that the guardians were entitled to costs of the prosecution under 5 & 6 Wm. & M. c. 11, s. 3, having prosecuted as officers, on account of a fact that concerned them as officers to prosecute; *Reg. v. —* 15 Q. B. 1060; 20 L. J. M. C. 53.

IV. And be it further enacted by the authority aforesaid that upon every *certiorari* granted or awarded within the counties palatine of Chester Lancaster or Durham to remove indictments or presentments for any of the matters aforementioned all the parties indicted prosecuting such *certiorari* shall find such sureties to be bound in such sums and with such respective conditions and at his and their own costs and charges shall cause and procure the issue joined upon the said indictments or presentments to be tried at the next assizes or general gaol delivery to be held for the said respective counties and shall give like notice to the prosecutor and if convicted shall be liable to like costs to be taxed as is by this Act provided for in cases where the same are granted or awarded out of the Court of King's Bench at Westminster.

Certiorari in
Chester, &c.
how granted.

V. [Provided always and be it enacted by the authority aforesaid that if any indictment or presentment be against any person or persons for not repairing of any highways causeways pavements or bridges and the right or title to repair the same may come in question upon such suggestion and affidavit made of the truth thereof a *certiorari* may be granted to remove the same into the Court of King's Bench any law or statute to the contrary in any wise notwithstanding. Provided nevertheless that the party or parties prosecuting such *certiorari* shall and two manucaptors to be bound in a recognizance with condition as aforesaid.*]

Certiorari
upon repairing
highways, &c.

Recognizance
by prosecutor.

* * * * *

[*] Annexed to the original Act in a separate schedule.

6 & 7 WILL. & M. CHAP. 4.

AN ACT for exempting Apothecaries from serving the Offices of Rot. Parl. Constable Scavenger and other Parish and Ward Offices and from serving upon Juries (a).

p. 1.
nu. 3.

WHEREAS the art of [the†] apothecary is of great and general use and benefit by reason of their constant and necessary assistance of His Majesty's subjects which should oblige them solely to attend the duty of their professions yet by reason that they are compelled to serve several parish ward and leet offices in the places where they live and are frequently summoned to serve on

Recital that
apothecaries
are compelled
to serve on
juries, &c. and
of letters
patent of
Jac. I.

(a) See 6 Geo. 4, c. 50, s. 62, and 25 & 26 Vict. c. 107. The 6 & 7 Will. 3, c. 4, was continued by 1 Anne, c. 4, and 10 Anne, c. 14, s. 3, and made perpetual by the 9 Geo. 1, c. 18, s. 1. [†] Interlined on the roll.

Apothecaries within London and seven miles of the city, that are free, exempt from offices.

Remedy for apothecaries who may be chosen.

Country apothecaries, who have served seven years, exempted from offices.

5 Eliz. c. 4.

juries and inquests which take up great part of their time they cannot perform the trusts reposed in them as they ought nor attend the sick with such diligence as is required And whereas King James the First by his letters patent under the great seal of England did incorporate the apothecaries exercising that art within London and seven miles compass by the name of the master wardens and society of the art and mystery of the apothecaries of the city of London Be it therefore enacted by the King's most excellent Majesty by and with the advice and consent of the Lords spiritual and temporal and Commons in this present parliament assembled and by the authority of the same that all and every person and persons using and exercising or that hereafter shall use and exercise the art of an apothecary within the said city of London and seven miles thereof being free of the said society and who already have been, or hereafter shall be duly examined of his skill in the said mystery and shall be approved of for the same and every of them for so long as he or they shall use and exercise the said art and no longer shall and may at all times hereafter be freed and exempted from the several offices of constable scavenger overseer of the poor and all other parish ward and leet offices and of and from the being put into or serving upon any juries or inquests (a) and if any time hereafter any such person or persons using the said art and being qualified as aforesaid shall be chosen or elected into any of the said offices or returned required or appointed to serve in any jury leet or inquest or be disquieted or disturbed by reason thereof that then such person or persons producing a testimonial under the common seal of the said corporation of such his examination approbation and freedom to the person or persons by whom he shall be so elected or appointed or by or before whom he shall be [so*] summoned returned or required to serve or hold any of the said offices or duties shall be absolutely discharged from the same, and such nomination election return and appointment shall be utterly void and of none effect any order custom law or statute to the contrary in any wise notwithstanding.

II. And be it further enacted by the authority aforesaid that all persons using and exercising or that hereafter shall use and exercise the said art of an apothecary within any other parts of this kingdom dominion of Wales or town of Berwick upon Tweed and who have been brought up and served or hereafter shall be brought up and serve in the said art as an apprentice by the space of seven years according to the statute of the fifth of Queen Elizabeth shall likewise from henceforth be freed and exempted from all and singular the offices and

(a) Repealed as to juries by 6 Geo. 4, c. 50, s. 62.

[*] O. omits.

duties aforesaid within the several counties cities and places where they live and inhabit for so long as he or they shall [use and*] exercise the said art and no longer and if any person or persons so qualified shall be elected or chosen into any of the said offices or returned to serve in any jury leet or inquest (b) such nomination election return and appointment shall be void, unless such person or persons shall voluntarily consent and agree to hold such office or serve upon such jury leet or inquest. . . .

* * * * *

[*] Interlined on the roll.

(b) Repealed as to juries by 6 Geo. 4, c. 50, s. 62.

8 & 9 WILL. III. CHAP. 30.

AN ACT for supplying some Defects in the Laws for the Relief of the Poor of this Kingdom.

Rot. Parl.
8 & 9 Gul. 3.
p. 10, nu. 3.

“ Forasmuch as many poor persons chargeable to the parish, township or place where they live, merely for want of work, would in any other place where sufficient employment is to be had, maintain themselves and families without being burthensome to any parish, township or place, but not being able to give such security as will or may be expected and required upon their coming to settle themselves in any other place, and the certificates that have been usually given in such cases having been oftentimes construed into a notice in handwriting, they are for the most part confined to live in their own parishes, townships or places, and not permitted to inhabit elsewhere, though their labour is wanted in many other places, where the increase of manufactures would employ more hands;” Be it therefore enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and the Commons, in this present parliament assembled, that if any person or persons whatsoever, that from and after the first day of May, which shall be in the year of our Lord one thousand six hundred and ninety-seven, shall come into any parish or other place there to inhabit and reside, shall at the same time procure, bring and deliver to the churchwardens or overseers of the poor of the parish or place where any such person shall come and inhabit, or to any or either of them, a certificate under the hands and seals of the churchwardens and overseers of the poor of any other parish, township or place, or the major part (c) of them, or under the hands and seals of the overseers of the poor of any other place where there are no churchwardens, to be attested respectively by

Persons coming to inhabit in any parish or place, to bring a certificate.

(c) See 51 Geo. 3, c. 80; 54 Geo. 3, c. 107, s. 1; 1 & 2 Geo 4, c. 32.

How to be
authenticated.

two or more credible witnesses, thereby owning and acknowledging the person or persons mentioned in the said certificate to be an inhabitant or inhabitants legally settled in that parish, township, or place, every such certificate having been allowed of and subscribed by two or more of the justices of the peace of the county, city, liberty, borough or town corporate, wherein the parish or place from whence any such certificate shall come, doth lie, shall oblige the said parish or place to receive and provide for the person mentioned in the said certificate, together with his or her family, as inhabitants of that parish, whenever he, she or they shall happen to become chargeable to, or be forced to ask relief of the parish, township or place to which such certificate was given; and then, and not before, it shall and may be lawful for any such person, and his or her children though born in that parish, not having otherwise acquired a legal settlement there, to be removed, conveyed and settled in the parish or place from whence such certificate was brought (a).

Effect of cer-
tificate.

* * * * *

Justices in
sessions, on
appeal to them
concerning the
settlement of
any poor per-
son, to award
costs.

III. And for the more effectual preventing of vexatious removals and frivolous appeals be it further enacted by the authority aforesaid that the justices of the peace of any county or riding in their general or quarter sessions of the peace upon any appeal before them there to be had for and concerning the settlement of any poor person or upon any proof before them there to be made of notice of any such appeal to have been given by the proper officer to the churchwardens or overseers of the poor of any parish or place (though they did not afterwards prosecute such appeal) shall at the same quarter sessions award and order to the party for whom and in whose behalf such appeal shall be determined or to whom such notice did appear to have been given as aforesaid such costs and charges in the law as by the said justices in their discretion shall be thought most reasonable and just to be paid by the churchwardens overseers of the poor or any other person against whom such

(a) See 9 & 10 Will. 3, c. 11; 12 Anne, stat. 1, c. 18, s. 2; and 3 Geo. 2, c. 29, ss. 8, 9. The 8 & 9 Will. 3, c. 30, s. 1, is repealed by 30 & 31

Vict. c. 59; but as it has still an extensive bearing upon settlements, it is necessarily retained in this collection of Poor Law Statutes.

*Decisions on
sect. 1.*

EVIDENCE.

It may be intended after long lapse of time, that a certificate under 8 & 9 Will. 3, c. 30, s. 1, was signed by a majority of the churchwardens and overseers, though one churchwarden and one overseer only have actually signed it, for one of the overseers may have died and the vacancy at the time not filled up: *Rex v. Hinckley*, 12 East, 361; *Rex v. Catesby*, 2 B. & C. 814.

Execution of a document by two overseers and one churchwarden, is an execution by the major part of the churchwardens and overseers, within 8 & 9 Will. 3, c. 30: *Rex v. Whitchurch*, 7 B. & C. 573.

appeal shall be determined or by the person that did give such notice as aforesaid and if the person ordered to pay such costs shall happen to live in any county riding city or town corporate or elsewhere out of the jurisdiction of the said court it shall and may be lawful for any justice of the peace of the county riding city liberty or town corporate wherein such person shall inhabit and every such justice is hereby required upon request to him for that purpose to be made and a true copy of the order for the payment of such costs produced and proved by some credible witness upon oath by warrant under his hand and seal to cause the money mentioned in that order to be levied by distress and sale of the goods of the person that is ordered and ought to pay the same and if no such distress can or may be had to commit such person to the common gaol of that county or liberty there to remain by the space of twenty days (b).

Person ordered to pay costs, living out of jurisdiction, justice of the county, &c. where such person inhabits, may cause the money to be levied;

If no distress, imprisonment in county gaol.

* * * * *

(b) See 9 Geo. 1, c. 7, ss. 8, 9; c. 43. s. 27; 12 & 13 Vict. c. 45, 4 & 5 Will. 4, c. 76, ss. 79, 82; 11 & ss. 5, 6. 12 Vict. c. 31, s. 5; 11 & 12 Vict.

EVIDENCE—continued.

The conduct of the overseers was held to be evidence of an admission by the parish, that there existed such a certificate as was required to settle the pauper in it, for that an admission of the effect of a written instrument by a party to a cause, supersedes the necessity of producing or accounting for such instrument, equally whether the admission be made in words or to be inferred from acts: *Reg. v. Basingstoke*, 14 Q. B. 611; 19 L. J. M. C. 97; 14 J. P. 75.

Decisions on sect. 1.

COSTS.

The sessions under 8 & 9 Will. 3, c. 30, s. 3, have power to award costs to the appellant, though the order be quashed for informality only: *Reg. v. Cottingham*, 2 A. & E. 250; 4 L. J. M. C. 6.

Decisions on sect. 3.

If an order of sessions confirming an order of removal be bad, the order for costs, being ancillary to the order of confirmation, is bad also: *Reg. v. Stoke Bliss*, 13 L. J. M. C. 151; 6 Q. B. 158; 8 J. P. 675.

Notwithstanding a rule of sessions practice as to the costs of an appeal against an order of removal, the sessions should enter the appeal and exercise their discretion on the hearing as to costs: *Reg. v. Merionethshire JJ.*, 6 Q. B. 163; 8 J. P. 390.

An appeal against an order of removal was entered and respited after notice of appeal was abandoned, and notice thereof given to the respondents. At a subsequent sessions the respondents after notice to the appellants appeared, and obtained an order confirming the order of removal, and adjudging a certain sum for their costs in supporting the latter order. Held, that the confirming the order of removal was an excess of jurisdiction; but that as the rights of the parties did not appear to be affected thereby, and the costs would have been the same had the appeal been, as it properly ought to have been, dismissed, the order of sessions was confirmed: *Reg. v. Over*, 19 L. J. M. C. 57; 14 Q. B. 425; 14 Jur. 197.

If a court of quarter sessions make a general rule that 40s. costs only be allowed on appeals, and on an application for costs by an appellant parish

Single persons.
A year's service.

IV. "And whereas some doubts have arisen touching the settlement of unmarried persons not having child or children, lawfully hired into any parish or town for one year;" Be it therefore enacted and declared, that no such person so hired as aforesaid shall be adjudged or deemed to have a good settlement in any such parish or township, unless such person shall continue and abide in the same service during the space of one whole year (a).

* * * * *

(a) See 3 Wm. & M. c. 11, ss. 6, 7; and 1 & 2 Will. 4, c. 41, s. 12. This sect. is repealed by 30 & 31 Vict. c. 59; but as existing settlements may still depend upon settlements acquired by hiring and service, it is necessarily retained in this collection of Poor Law Statutes.

COSTS—continued.

Decisions on
sect. 3.

at whose instance an order of removal has been quashed, adhere to their general rule and give them 40s. costs, and decline to consider the merits of the particular case, the court will grant a *mandamus* to compel the justices to consider and award to the appellants such costs as the justices in their discretion shall think reasonable and just: *Reg. v. Glamorganshire JJ.*, 19 L. J. M. C. 172; 14 J. P. 383.

The justices of a borough made an order for the removal of a pauper against which notice of appeal was given by the overseers to the sessions of the county in which the borough was situated, instead of to the borough sessions, and on discovering their error, a letter was written one day before the holding of the borough sessions abandoning the notice, whereupon the respondents attended at the last-named sessions, and obtained an order for their costs; to which they were held entitled: *Reg. v. Leeds*, 3 L. T. (N. S.) 699.

SETTLEMENT BY HIRING AND SERVICE—SERVICE.

Decisions on
sect. 4.

If a maid-servant were discharged before the end of the year, being with child, she gained no settlement: *Rex v. Marlborough*, 12 Mod. 402.

The servant as well as the hiring must have been for a year; and, therefore, if a maid-servant were turned away for being with child, she gained no settlement by her service, though her whole wages were paid: *Rex v. Brampton*, Cald. 11.

If a master, a week before the expiration of the year, was obliged from unforeseen circumstances to break up housekeeping, and in consequence dismissed his servant, paying her the full wages to the end of the year, a settlement was gained: *Rex v. St. Bartholomew, Cornhill*, Cald. 48.

If an absence were procured by fraud, it did not avoid a settlement: *Rex v. Preston, Bott.*; Cald. 133; Burr. S. C. 69.

A servant, within ten days of the end of the year, left with his master's consent, for the purpose of avoiding a settlement in that parish. This was no dissolution of the contract: *Rex v. Frome Selwood*, Burr. S. C. 565; Cald. 133.

Absence for some days in the end of the year by reason of commitment for getting a single woman with child prevented a settlement, although the master was an overseer and active in the commitment, and the man was let out as soon as the year expired on giving his bond to indemnify the parish: *Rex v. North Cray, Bott.*; Cald. 495.

A servant, in order to avoid being taken up for having got a woman with child, told his master he must be off and asked for money, which was given to him, and he ran away. After nine days he returned for his clothes, and being asked to stay, continued to the end of the year. This was a dissolu-

SETTLEMENT BY HIRING AND SERVICE—SERVICE—*continued.*

tion of the contract, and no settlement was gained: *Rex v. East Kennett*, *Decisions on Bott.*; Cald. 562. *sect. 4.*

A servant, three days before the end of the year, for the purpose of avoiding a settlement, proposed to his master to be discharged, which was done before a justice, the master having no objection to a settlement; this was not fraudulent, but a dissolution of the contract, and the servant gained no settlement: *Rex v. North Basham*, Bott.; Cald. 566.

If a servant absented himself by reason of sickness, or to see his mother with consent, or to seek another service without consent, yet he gained a settlement if the master took him into service again before the year expired: *Rex v. Islip*, Fort. 305; Str. 423; Foley, 262; Sett. & Rem. 129.

Turning a servant out of doors the day before the year expired did not prevent a settlement: *Eastland v. Westhorsley*, Str. 526.

If a servant left before the end of the year, though without compulsion of the master, he gained no settlement: *Sheen v. Godalming*, Bott.

Absence of the servant without consent was purged by the master receiving him again, and a settlement was acquired: *Rex v. Eaton*, Burr. S. C. 47.

If a servant left his service before the year expired, and if hired during his absence—no settlement: *Rex v. Castlechurch*, Burr. S. C. 68; Str. 1022; Cald. 95.

If the master and servant parted by mutual consent three weeks before the year expired, the servant rebating three weeks' wages, it was a dissolution of the contract, and no settlement: *Pawlet v. Burnham*, Bott.; Sett. & Rem. 84; 1 Sess. Ca. 87; Burr. S. C. 69.

A service with the executor of the master for the remainder of the year in a different parish from that in which the hiring for a year was made, is good; for the death of the master does not dissolve the contract: *Rex v. Ladoock*, Burr. S. C. 179; Str. 1164.

A servant who with his master's permission went to the herring fishing, providing a substitute during his absence, did not lose his settlement, though he did not return till the year had expired: *Rex v. Goodestone*, Burr. S. C. 251; Str. 1232.

A service, though not commenced till three days after the hiring, and interrupted by an absence of a fortnight without the master's consent, is a sufficient service if the master confirm the contract by permitting a continuation of the service: *Rex v. Hanbury*, Burr. S. C. 322.

A servant five weeks before the end of the year went, with his mistress's leave, to work in a different parish, and on receiving his year's wages, after the year expired, he voluntarily returned the amount of the money he had earned during his absence. This was no dissolution of the contract. *Rex v. Nether Heyford*, Burr. S. C. 479.

A service for a year, though under different hirings, gained a settlement if one of the hirings was for a year: *Rex v. Overton*, Burr. S. C. 459; Fort. 316; Sett. & Rem. 255; Salk. 257; S. P. *Rex v. South Molton*, 1 Ld. Raym. 426.

On a hiring from Michaelmas to Michaelmas, if the servant said he could not leave till the day after Michaelmas, and the master said he would shift for himself, this was a permission of absence, and if he continued his service till the day before the ensuing Michaelmas Day, and then quitted by leave from his master, it was a good service for a year: *Rex v. Bray*, Burr. S. C. 682.

A servant the day before the year expired desired his master to discharge him, which he did. This was an absence with leave, and no dissolution of the contract: *Rex v. Potter Heigham*, Burr. S. C. 690.

A footman, two months before his year expired, married a maid-servant in

SETTLEMENT BY HIRING AND SERVICE—SERVICE—*continued.*

Decisions on
sect. 4.

the family, who had given warning, but was desired by her master to stay till a future day; she did so, and her husband, at the master's proposal, went away with her thirteen days before his time. This was no dissolution of the contract: *Rex v. Richmond*, Burr. S. C. 740.

The hiring for a year must have been one entire contract; two successive hirings for half a year each was not sufficient: *Dunsford v. Ridgwick*, Salk. 535.

Service under a hiring from five days after Michaelmas to the Michaelmas following, and a departure on Michaelmas Day, could not be coupled with a service under a new hiring for a year, made by the same master after the servant's departure: *Wichford v. Bretford*, Fort. 311.

A service on a hiring from three weeks after Michaelmas to Michaelmas might be joined to a service of eleven months under a new hiring for a year: *Brightwell v. Westhalley*, Bott.; Foley, 143; 1 Sess. Ca. 92.

Distinct and separate hirings for eleven months each could not be connected so as to form a hiring for a year: *Rex v. Haughton*, Str. 83; Foley, 137; Cald. 133.

A service under a hiring from Christmas to Michaelmas could be joined and a service from Michaelmas to Christmas under a successive hiring for a year: *Rex v. Aynhoe*, 2 Sess. Ca. 119; Foley, 144; Cald. 180, n.

Two services under different hirings might be connected so as to give a settlement: *Hanmer v. Ellesmere*, Str. 878; 1 Barnard, 378; 2 Sess. Ca. 166.

Service under an imperfect hiring could not be connected with service under a perfect hiring, unless under the latter there was a residence of forty days: *Eardisland v. Leominster*, Bott.; 1 Sess. Ca. 226.

A service of three quarters of a year was a hiring from Midsummer to Lady Day, and might be joined to a subsequent service under a new hiring for a year, although the servant received his wages at Lady Day, and left his master's house for an hour before the second hiring was made: *Rex v. Fifehead Magdalen*, Burr. S. C. 116.

A service of eleven months under a hiring for a year could not be joined to a service of six month under a second hiring for a year, if the first service was clearly discontinued, although the second hiring took place before the first expired: *Rex v. Caverswall*, Burr. S. C. 461.

Service under a hiring from Christmas to Whitsuntide might be coupled with a service till the beginning of March following, under a hiring from the Whitsuntide for a year: *Rex v. Underbarrow and Bradley Field*, Burr. S. C. 545.

If a servant hired for a year ran away, and entered another service, quitted it, and went to sea, and then returned to his first master, and served so as to make up a year, without making a new contract, the two services could not be joined so as to give a settlement: *Rex v. Ross*, Burr. S. C. 688.

Service for a year under two hirings within the year gained a settlement if the discontinuance did not exceed a day, of which the law will not make a fraction: *Rex v. Ellisfield*, Cald. 4; Doug. 310.

Services in successive years would be connected only when the servant at the commencement of the succeeding year was unmarried: *Rex v. St. Giles, Reading*, Cald. 54.

Increase of wages upon a second hiring for less than a year on the day the first hiring for a year ended and a removal into another parish, were not such a discontinuance of the first service as would defeat a settlement under it: *Rex v. Underbarrow and Bradley Field*, Cald. 65; Doug. 309.

Service under a hiring for a year will connect with similar preceding services under any number of hirings from week to week: *Rex v. Bagworth*, Cald. 179.

SETTLEMENT BY HIRING AND SERVICE—SERVICE—*continued.*

If a servant took ill on the day of hiring, and on going to his service a month afterwards, the master's wife refuse to receive him, but on the servant's mother saying in his presence that the wages shall be left to the master, the servant is left in the service, and deduction is made for the month, the service did not commence under the first contract: *Rex v. Winterset*, Cald. 298. *Decisions on sect. 4.*

Service under a hiring a few days before Michaelmas for a year, and under a hiring again to the same master, three days after the Michaelmas ensuing, though at different wages, and for a different service, could be connected so as to gain a settlement: *Rex v. Grendon Underwood*, Cald. 359.

If a master insisted on turning away his servant, and threw down his wages, which the servant took up and then went away, and six days afterwards returned, at the master's request, and served the remainder of the year; the absence was not purged by the subsequent return, for the contract was dissolved, and could not be restored by a subsequent agreement: *Rex v. Gresham*, 1 T. R. 101.

If a servant were hired, and served from November to Michaelmas Day, and before the latter day his master offered to hire him from Michaelmas for a year, at certain wages, to which he did not agree, but remained in the house till the second day after Michaelmas, working as usual, and then accepted the offer, and served part of the year; the service under the latter hiring commenced on the Michaelmas Day, and might be coupled with the former service so as to gain a settlement: *Rex v. Sulgrave*, 1 T. R. 778.

If after a hiring for a year the master told the servant that he must be absent because of his settlement, and that he would have a fortnight at the end of the year to get what he could, and the servant assented, though under an apprehension that the master would not otherwise have hired him; this was a dispensation of the service for the time and not an exceptive act of the original hiring: *Rex v. Sulgrave*, 2 T. R. 376.

If a servant hired for a year, gave warning eight days before the expiration of the year, to leave at the end of the year, and the master discharged him on the same day, paying him his full wages, the servant being willing to stay till the end of the year; the contract was not dissolved, and a settlement was gained: *Rex v. St. Philip, in Birmingham*, 2 T. R. 624.

If a servant hired at yearly wages was discharged four or five days before the end of the year, upon the master's becoming bankrupt, receiving his full wages, a settlement was gained: *Rex v. St. Andrew, Holborn*, 2 T. R. 627.

A servant who was illtreated and turned out of doors by his master three days before the end of the year, and who refused, on his master's request the next day, to return, gained no settlement by service, though the whole year's wages were paid: *Rex v. Grantham*, 3 T. R. 754.

If a servant a few days before the end of the year went away in order to get another place without asking leave, and on his return before the end of the year the master insisted on turning him away, and offered him his wages up to that time, which he accepted; the absence was a dissolution of the contract, though the servant wished to stay out the year: *Rex v. Claydon*, 4 T. R. 100.

A hired servant for a year ran away, and continued absent for thirteen weeks. On being fetched back under a justice's warrant he consented to allow his master 1s. a week for the time he was absent, and returned to his service till the end of the year. This was not a dissolution of the original contract of hiring: *Rex v. East Shefford*, 4 T. R. 804.

A settlement might be gained by serving a year under different hirings, if one of them was for a year, though there were not forty days' service under the yearly hiring: *Rex v. Adson*, 5 T. R. 98.

If A. be hired at Martinmas to serve in husbandry for a year, at 8*l.* a

SETTLEMENT BY HIRING AND SERVICE—SERVICE—*continued.*

*Decisions on
sect. 4.*

year, and in the middle of the year he married, and then agreed to serve his master as a hind for a year from that time at weekly wages, and to live at another farm belonging to his master, a service under these several hirings did not gain a settlement: *Rex v. Great Chilton*, 5 T. R. 672.

If a yearly servant three weeks before the end of his year hired himself to a second master provided the first would let him go, and the first, a week afterwards consented, and paid him his whole year's wages, this was a dissolution of the contract, and no settlement was gained: *Rex v. Thistleton*, 6 T. R. 185.

A servant, who on being beaten by her master 16 days before the end of the year, desired him to dismiss her, and she received her whole year's wages and went away, this was a dissolution of the contract: *Rex v. Upwell*, 7 T. R. 438.

A hiring three days after Michaelmas till the Michaelmas following in leap year, together with a service till the day after Michaelmas Day, making 365 days, did not gain a settlement, for it was not a hiring for a year: *Rex v. Ulverstone*, 7 T. R. 564.

A master giving up his house before the end of the year, for which he had hired a servant, told the latter that he had no further occasion for her services, and paid her a whole year's wages. The master would otherwise have kept her on, and she was unwilling to leave. This was a dispensation of the service for the rest of the year: *Rex v. St. Mary, Lambeth*, 8 T. R. 236.

A service under a hiring by the week (the servant boarding and lodging himself), nothing being said about Sunday, but the servant working on that day occasionally when asked by his master, without additional wages, though he sometimes received victuals, might be joined with service under a yearly hiring as a menial servant, and a settlement would be gained: *Rex v. Sutton*, 1 East, 656.

A servant leaving through ill usage from his master before the end of the year of hiring, though he received the whole of his wages, gained no settlement: *Rex v. Corsham*, 2 East, 303.

A servant, four months before the end of the year of hiring, being discharged by her master, applied to a magistrate, who ordered the master to take her back or pay her the whole year's wages. The master did the latter, and it was held that the contract was dissolved, and no settlement was gained: *Rex v. Kings Pyon*, 4 East, 351.

Five days before the end of the year, a servant absented himself, by leave, one day, to look for another place. On his return, his master said he should not stay any longer, and offered him a trifle less than his whole wages, which the servant refused, and applied to a magistrate, who ordered 2s. 6d. to be deducted from the wages. The servant thereupon and before the year was out, hired himself to another master. This was a dissolution of the service: *Rex v. Leigh*, 7 East, 539.

Where the master died three weeks after the hiring of a servant for a year, and the servant abode with the widow and sons to the end of the year, she gained a settlement where she served: *Rex v. Hardhorn with Newton*, 12 East, 51.

A servant left two days before the expiration of his year, with the master's consent, who paid him his full wages for the year. This was held by a majority of the judges a dissolution of the contract: *Rex v. Maidstone*, 12 East, 550.

A master, on giving up his business, discharged his servant before the year was out, paying the full wages nevertheless—this was a dissolution of the contract, and no settlement was gained: *Rex v. Bray*, 3 M. & S. 20.

A girl before the expiration of her apprenticeship hired herself and served for one year, the last four months of which were after her inden-

VI. And be it further enacted by the authority aforesaid that from and after the first day of May one thousand six hundred and ninety seven (*a*), the appeal against any order for the removal of any poor person from out of any parish township or place shall be had prosecuted and determined at the general or quarter sessions of the peace for the county division or riding wherein the parish township or place from whence such poor person shall be removed doth lie and not elsewhere any former law or statute to the contrary thereof in any wise notwithstanding (*b*).

* * * * *

(*a*) See 9 Geo. 1, c. 7, s. 52.

(*b*) See 11 & 12 Vict. c. 31.

SETTLEMENT BY HIRING AND SERVICE—SERVICE—*continued*.

tures had expired, and then hired herself to the same person for another year, but served only ten months. She thereby gained a settlement: *Decisions on*
v. Dawlish, 1 B. & Ald. 280. *sect. 4.*

A service under a hiring for 51 weeks may be coupled with a service under a previous hiring for a year, so as to confer a settlement: *Rex v. Fillongley*, 1 B. & Ald. 319.

A servant was hired to serve for part of a year. Three weeks before the expiration of the period of service, the mistress asked her to stay again, which she agreed to do upon terms, nothing was then said as to the time of hiring, but shortly afterwards the mistress said, "I have hired you, but mentioned no time, remember that you are hired for 51 weeks," to which the servant assented. This was a good hiring for a year: *Rex v. Market Bosworth*, 4 B. & C. 757.

A conditional hiring conferred a settlement: *Rex v. Northwold*, 2 D. & R. 790.

POOR REMOVAL—APPEAL TO SESSIONS.

An order of removal not appealed against is conclusive as to the settlement: *Rex v. North Featherstone*, 1 Sess. Ca. 154; 2 Barnard, 148, 152. *Decisions on*
sect. 6.

An order of justices for the removal of a pauper, unappealed against, is final: *Rex v. Silchester*, Burr. S. C. 551; S. P. Foley 316.

The justices are bound to receive an appeal against an order of removal if offered at the next sessions, although no notice of appeal had been given: *Rex v. Gloucestershire JJ.*, Doug. 191.

If from the distance between a parish to which a pauper has been removed, and the place where the sessions are held, there is not time to lodge an appeal at the sessions held immediately subsequent to the removal, the sessions next ensuing are to be considered as the next sessions within 14 Car. 2, c. 12, and the justices will be compelled to receive the appeal at such sessions: *Rex v. York E. R. JJ.*, Doug. 192.

If an order of removal be executed three days before the sessions in a parish 20 miles from the place where the sessions are holden, and there be no appeal to those sessions, the justices are not bound to receive an appeal at the next sessions: *Rex v. Herefordshire JJ.*, 3 T. R. 504.

Where quarter sessions are held at two different places in the county, the one being an adjournment for the other, and an order of removal is executed after the beginning of the original sessions, but before the adjourned sessions, an appeal at the next ensuing adjourned sessions is in time: *Rex v. Sussex JJ.*, 7 T. R. 107.

 POOR REMOVAL—APPEAL TO SESSIONS—*continued.*

*Decisions on
sect. 6.*

An appeal against an order of removal may be entered at the next sessions but one after the order is executed, if there be not a reasonable time between the execution of the order and the next sessions to make inquiries respecting the pauper's settlement: *Rex v. Flintshire JJ.*, 7 T. R. 200.

Coupling 35 Geo. 3, c. 101, with 3 Wm. & M. c. 12, s. 9, appeals lie against an order of removal, which was suspended, and a subsequent order for costs, notwithstanding the death of the pauper before any removal of him in fact made, and though the costs were under 20*l.*; such order for costs attaching by consequence a grievance on the parish to which the order of removal was made, if the pauper were not settled in it: *Rex v. St. Marylebone*, 13 East, 51.

An order of removal, quashed for informality, is not conclusive of the settlement as between the two contending parishes: *Rex v. Penge*, Nol. Rep. 176.

Where an order of removal was made and executed on the day before the holding the Epiphany Sessions, and the parish to which the pauper was removed gave due notice, and enter their appeal at the Easter Sessions, at which the justices refused to hear it, on the ground that it should have been entered at the Epiphany Sessions, the court granted a *mandamus* to the justices to receive the appeal, notwithstanding it appeared that the Epiphany Sessions continued for 14 days, and were afterwards twice adjourned to distant days, and that it was the practice of the sessions to allow appeals to be entered at any time during their continuance, or at the adjourned sessions, and to respite the hearing to the next sessions: *Rex v. Surrey JJ.*, 1 M. & S. 479.

Where an order of removal from a township in Yorkshire to a parish in Middlesex, was executed on the 12th January, and the Yorkshire Epiphany Sessions were holden on the 18th, and the parish did not appeal till the Easter Sessions, when the justices refused to receive the appeal, the court refused a *mandamus* to the justices to receive it, it appearing that the appellants were not ready to enter and try their appeal at the Easter Sessions, but only to enter and respite: *Rex v. York W. R. JJ.*, 4 M. & S. 327.

Where an order of removal was made on the 2nd January, and served on the 7th, and the sessions were holden on the 14th, and the appellant parish was 15 miles from the place of holding the sessions, by the practice of which eight days' notice was required in order to enable an appellant to enter and try his appeal; it was holden that he might pass by the first sessions, and give notice for and try his appeal at the following sessions: *Rex v. Southampton JJ.*, 6 M. & S. 394.

Where an order of removal was served on the appellant parish on Saturday, and the sessions were holden on the following Monday, and the appellant parish was 37 miles from the place where the sessions were holden, but there was no appeal to those sessions, and the justices refused to receive the appeal at the next sessions, the court granted a *mandamus*: *Rex v. Essex JJ.*, 1 B. & Ald. 210.

Where by charter the magistrates of a borough which was a county of itself, held only general sessions twice a year, and not quarter sessions, it was held that an appeal against an order of removal might be made to the next general sessions for the borough: *Rex v. Carmarthen JJ.*, 4 B. & Ald. 291.

Where an order of removal has been executed, and by the consent of the removing parish, and the magistrates, making it, it is superseded and the paupers taken back, it is in the discretion of the sessions to enter an appeal against it or not, according as they may think that justice requires, in order to compel the respondents to pay the costs of maintenance incurred before the order was superseded: *Rex v. Norfolk JJ.*, 5 B. & Ald. 484.

POOR REMOVAL—APPEAL TO SESSIONS—*continued*.

It is unnecessary to enter and respite an appeal at the next sessions, when *Decisions on the order of removal is served so late as to render it impossible to try the sect. 6.* appeal at those sessions: *Rex v. Kent JJ.*, 8 B. & C. 639. —

If due notice of the intention to prosecute an appeal against an order of removal at the second sessions after it is made be given, the sessions are bound to hear and determine it, though at the first sessions it might have been entered and respited: *Rex v. Devon JJ.*, 8 B. & C. 640; *S. P. Rex v. Southampton JJ.*, *Id.* 641.

Where on appeal to the sessions it was found that the original order of removal was not served within a reasonable time, the court held that it was not therefore void, but voidable only by appeal, and that the parish ought to have appealed to the next practicable sessions, after notice of the original order: *Rex v. Penkridge*, 3 B. & Ad. 538.

The overseers of a parish who do not appeal against a first order of removal, are precluded from alleging as a ground of appeal against a second order that the first was made without legal proof of chargeability: *Reg. v. Holdsworth*, 1 Q. B. 221; 10 L. J. M. C. 57; 1 G. & D. 442.

If the sessions for the county wherein a borough having a grant of quarter sessions is situate, have cognizance of appeals against orders of removal from places within the borough, under 8 & 9 Will. 3, c. 30, yet if the first sessions at which it may be practicable to appeal be those of the borough, the appeal should be brought there: *Reg. v. St. Edmund's, Salisbury*, 2 Q. B. 72; 1 G. & D. 137; 5 J. P. 483.

The court of quarter sessions for a borough having a grant of such court under 5 & 6 Will. 4, c. 76, have exclusive jurisdiction in the trial of appeals from orders of removal made by justices of the borough: *Reg. v. Salop JJ.*; *Reg. v. Lancashire JJ.*; *Reg. v. Suffolk JJ.*; 10 L. J. M. C. 138; 1 G. & D. 146; 2 Q. B. 85; 5 J. P. 484.

If 21 days have not elapsed between the service of an order of removal and the next sessions, the appellants need not appeal to those sessions: *Reg. v. Lancashire JJ.*, 4 Q. B. 910; 12 L. J. M. C. 110; 7 J. P. 399.

In London and Middlesex (which have four general and four quarter sessions) the appeal against an order of removal must be to the quarter sessions: *Reg. v. Middlesex JJ.*, 12 L. J. M. C. 134; 4 Q. B. 807; 7 J. P. 494; *S. P. Rex v. London JJ.*, 15 East, 632.

If there be a mistake in describing an order, and the sessions be of opinion that an appeal was meant to be entered against the real order of removal, they are bound to hear it: *Reg. v. Middlesex JJ.*, 15 L. J. M. C. 100.

An appeal against an order of removal must be to the next practicable sessions: *Reg. v. Sevenoaks*, 7 Q. B. 136; 9 J. P. 485; *Reg. v. Peterborough JJ.*, 26 L. J. M. C. 153; 21 J. P. 20.

Where an appeal against an order of removal has been entered and respited to the following sessions, that court has power further to respite the hearing of the appeal, although no notice or grounds of appeal have, prior to such sessions, been served upon the respondents: *Reg. v. Lancashire JJ.*, 17 L. J. M. C. 45.

A notice of appeal against an order of justices for the removal of a pauper, may be signed and given by an attorney on behalf of the parish officers of the appellant parish: *Reg. v. Middlesex JJ.*, 20 L. J. M. C. 42.

On the trial of an appeal against an order of removal from A. to B., the respondents relied upon a former order of removal, whereby the pauper when six weeks old had been removed to B., together with her mother, and it was held that the description of the pauper in that order as "the daughter" of C., who was then removed, did not estop the appellant from disputing her legitimacy, as her illegitimacy would have afforded no ground of appeal against the former order: *Reg. v. Caerwys*, 30 L. T. 256.

And for justices of peace at St. Alban's hearing appeals.

VIII. [*] Provided that this Act nor anything therein contained shall be construed to hinder the justices of the peace within the liberty of Saint Alban's from hearing and determining any appeals for the settlement of the poor in their quarter sessions as they might have done before the making of this Act any thing therein contained to the contrary in any wise notwithstanding (a).

[*] Annexed to the original Act in a separate schedule.

(a) By 9 Geo. 1, c. 7, s. 7, *the like* St. Peter, and hundred of Nassau provision was made for the borough of borough in Northamptonshire.

8 & 9 WILL. III. CHAP. 33.

Rot. Parl.
8 & 9 Gul. 3,
p. 11, nu. 2.

AN ACT to make perpetual and more effectual an Act intituled
“ An Act to prevent Delays at the Quarter Sessions of the
Peace” (b).

5 Will. & M.
c. 11.

WHEREAS an Act made in the fifth [†] sixth years of the reign of King William and the late Queen Mary intituled An Act to prevent Delays of proceedings at the quarter sessions of the peace by experience hath been found useful and beneficial

* * * * *

Party prosecuting any *certiorari* to remove an indictment may find two manucaptors to enter into a recognizance, &c.

II. And for the making the purpose and design of the said Act more effectual be it enacted by the authority aforesaid that from and after the one and twentieth day of April which shall be in the year of our Lord one thousand six hundred and ninety seven the party or parties prosecuting any *certiorari* to remove any indictment or presentment from the quarter or general sessions of the peace may find two sufficient manucaptors who shall enter into a recognizance before any one of his Majesty's justices of the Court of King's Bench in the same sum and under the same condition as is required by the said Act whereof mention shall be made on the back of such writ under the hand of the justice taking the same which shall be as effectual and available to all intents and purposes to stay or supersede any further proceedings upon any indictment or presentment for the removal of which the said writ of *certiorari* shall be granted as if the recognizance had been taken before any one of the justices of the peace of the county or place where such indictment was found or presentment made and also it shall be added to the condition of every recognizance taken by virtue of this and the said Act that the party or parties prosecuting such writ of *certiorari* shall appear from day to day in the said Court of King's Bench and not depart until he or they shall be discharged by the said court.

Party to appear daily in the King's Bench Court until discharged.

(b) See 5 & 6 Wm. & M. c. 11, Geo. 2, c. 18, s. 5; and 5 & 6 Will. 4, s. 3; 5 Geo. 2, c. 19, ss. 2 & 3; 13 c. 33, ss. 1 and 2.

[†] and O.

9 WILL. III. CHAP. 11.

AN ACT for explaining an Act made the last Session of Parliament, intituled "An Act for supplying some Defects in the Laws for the Relief of the Poor of this Kingdom."

Whereas in and by a certain Act made in the last session of 8 & 9 Will. III. this present parliament, intituled, "An Act for supplying some Defects in the Laws for the Relief of the Poor of this Kingdom," c. 30, s. 1. it was, amongst other things therein contained, enacted, that if any person or persons whatsoever, that from and after the first day of May, in the year of our Lord one thousand six hundred and ninety-seven, shall come into any parish or place, there to inhabit and reside, should at the same time procure, bring and deliver to the churchwardens or overseers of the poor of the parish or place where any such person should come to inhabit, or to any or either of them, a certificate under the hands and seals of the churchwardens and overseers of the poor of any other parish, township or place, or the major part of them, or under the hands and seals of the overseers of the poor of any other place where there are no churchwardens, to be attested respectively by two or more credible witnesses, thereby owning and acknowledging the person or persons mentioned in the said certificate, to be an inhabitant or inhabitants legally settled in that parish, township, or place; every such certificate, having been allowed of and subscribed by two or more of the justices of the peace of the county, city, liberty, borough, or town corporate, wherein the parish or place from whence any such certificate shall come doth lie, shall oblige the said parish or place to receive and provide for the person mentioned in the certificate, with his or their family, as inhabitants of that parish, whenever he, she, or they shall happen to become chargeable to, or be forced to ask relief of the parish, township, or place to which such certificate was given; and that then, and not before, it should and might be lawful for any such person, and his or her children, though born in that parish, not having otherwise acquired a legal settlement there, to be removed, conveyed and settled in the parish or place from whence such certificate was brought: And whereassome doubts have arisen upon construction of the said Act, by what acts any person coming to inhabit or reside within any parish, by virtue of any such certificate as aforesaid, may procure a legal settlement in such parish, and whether such certificate did not amount to a notice in writing, in order to gain a settlement: For explaining thereof and of the said Act, be it therefore enacted and declared, by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that no person or persons whatsoever, who shall come into any parish, by

In what case person adjudged to have a legal settlement.

any such certificate as aforesaid, shall be adjudged by any act whatsoever to have procured a legal settlement in such parish, unless he or they shall really and bonâ fide take a lease of a tenement of the value of ten pounds (b), or shall execute some annual (c) office in such parish, being legally placed in such office (d).

(b) See 14 Car. 2, c. 12, s. 1; and Will. 3, s. 11, though repealed by 4 & 5 Will. 4, c. 76, s. 66. 30 & 31 Vict. c. 59, is continued

(c) See 3 Wm. & M. c. 11, s. 6.

(d) See also 8 & 9 Will. 3, c. 30; 35 Geo. 3, c. 101, s. 1; 12 Anne, c. 18; and 3 Geo. 2, c. 29. The 9

in this collection for the reason stated, *ante*, p. 182, for continuing the 8 & 9 Will. 3, c. 30, s. 1.

9 WILL. III. CHAP. 15.

Rot. Parl.
9 Gul. III.

p. 3, n. 5.
Recital that
references
made by rule
of court have
contributed to
the ease of the
subject.

AN ACT for determining Differences by Arbitration (e).

Merchants, &c.
where remedy
only by per-
sonal action or
suit in equity,
may agree
that award
may be made
a rule of court,
and may insert
the same in
their submis-
sion.

WHEREAS it hath been found by experience that references made by rule of court have contributed much to the ease of the subject in the determining of controversies because the parties become thereby obliged to submit to the award of the arbitrators under the penalty of imprisonment for their contempt in case they refuse submission Now for promoting trade and rendering the awards of arbitrators the more effectual in all cases for the final determination of controversies referred to them [by*] merchants and traders or others concerning matters of account of trade or other matters Be it enacted by the King's most excellent Majesty by and with the advice and consent of the Lords spiritual and temporal and Commons in parliament assembled and by authority of the same that from & after the eleventh day of May which shall be in the year of our Lord one thousand six hundred and ninety-eight it shall and may be lawful for all merchants and traders & others desiring to end any controversy suit or quarrel controversies suits or quarrels (for which there is no [other*] remedy but by personal action or suit in equity) by arbitration to agree that their submission of their suit to the award or umpirage of any person or persons should be made a rule of any of his Majesty's Courts of Record which the parties shall choose and to insert such their agreement in their submission or the condition of the bond or promise whereby they oblige themselves respectively to submit to the award or umpirage of any person or persons which agreement being so made and inserted in their submission

(e) See 12 & 13 Vict. c. 45, s. 12. [*] Interlined on the roll.

SETTLEMENT BY ESTATE—CERTIFICATED PERSON.

Decision on
9 Wm. III.
chap. 11.

A man living in A. under a certificate from B. could not gain a settlement in A. by purchasing an estate for money, under 9 Will. 3, c. 11: *Rex v. Great Duffield*, 8 B. & C. 684.

or promise or condition of their respective bonds shall or may upon producing an affidavit thereof made by the witnesses thereunto or any one of them in the court of which the same is agreed to be made a rule and reading and filing the said affidavit in court to be entered of record in such court and a rule shall thereupon be made by the said court that the parties shall submit to & finally be concluded by the arbitration or umpirage which shall be made concerning them by the arbitrators or umpire pursuant to such submission And in case of disobedience to such arbitration or umpirage the party neglecting or refusing to perform and execute the same or any part thereof shall be subject to all the penalties of contemning a rule of court when he is a suitor or defendant in such court and the court on motion shall issue process accordingly which process shall not be stopped or delayed in its execution by any order rule command or process of any other court either of law or equity unless it shall be made appear on oath to such court that the arbitrators or umpire misbehaved themselves and that such award arbitration or umpirage was procured by corruption or other undue means.

II. Any arbitration or umpirage procured by corruption or undue means shall be judged and esteemed void and of none effect and accordingly be set aside by any court of law or equity so as complaint of such corruption or undue practice be made in the court where the rule is made for submission to such arbitration or umpirage before the last day of the next term after such arbitration or umpirage made and published to the parties anything in this Act contained to the contrary notwithstanding.

Arbitration
unduly pro-
cured, void.

1 ANNE, CHAP. 12.

AN ACT to explain and alter the Act made in the two and twentieth Year of King Henry the Eighth concerning repairing and amending Bridges in the Highways.

* * * * *

III. And to the end that the money which is hereby intended to be assessed and levied may be duly collected paid and applied to the several purposes for which it is intended every high constable (*f*) churchwarden overseer of the poor (*g*) or

High con-
stables,
churchwar-
dens, &c. neg-
lecting to
assess, &c.

(*f*) See 32 & 33 Vict. c. 47.

in this section the churchwardens

(*g*) By section 2 of 1 Anne, c. 12, the money is to be levied and collected by the constables of each parish;

and overseers are mentioned, but not in s. 2.

Penalty.

petty constable or other person that shall neglect to assess collect or pay the money hereby intended to be raised as is hereinbefore directed (a), shall for every such offence forfeit the sum of forty shillings.

* * * * *

12 ANNE, CHAP. 18.

An Act for making perpetual the Act made in the thirteenth and fourteenth Years of the Reign of the late King Charles the Second, intituled "An Act for the better Relief of the Poor of this Kingdom;" and that Persons bound Apprentices to, or being hired Servants with Persons coming with Certificates, shall not gain Settlements by such Services or Apprenticeships (b).

* * * * *

Apprentice, or hired servant to a certificate man, shall not gain a settlement.

II. [Recites 8 & 9 Will. 3, c. 30, s. 1, ante, p. 181.] *And whereas many persons obtaining and bringing such certificates, do frequently take apprentices bound by indenture, and hire and keep servants by the year, who, by reason of such apprenticeships and services, do gain settlements in, and become a great burthen to such parishes, townships, and places, though such masters coming with such certificates have, by virtue thereof, no settlements in such parishes, townships, or places: For remedy whereof it is declared and enacted, by the authority aforesaid, that if any person whatsoever, who, upon or after the four-and-twentieth day of June, one thousand seven hundred and thirteen, shall be an apprentice bound by indenture to, or shall, upon or after the said four-and-twentieth day of June, one thousand seven hundred and thirteen, be a hired servant to or with any person whatsoever, who did come into or shall reside in any parish, township, or place in that part of Great Britain called England, by means or licence of such certificate, and not afterwards having gained a legal settlement in such parish or township, or place, such apprentice by virtue of such apprenticeship, indenture, or binding, and such servant by being hired by, or serving as a servant, as aforesaid, to such person, shall not gain or be adjudged to have any settlement in such parish, township, or place, by reason of such apprenticeship or binding, or by reason of such hiring or serving therein; but every such apprentice and servant shall have his and their settlements in such parish, township, or*

(a) See ante, note (g), p. 195. c. 59; see note (a), ante, p. 182; and
(b) Repealed by 30 & 31 Vict. note (d), ante, p. 194.

place as if he or they had not been bound apprentice or apprentices, or had not been an hired servant or servants to such person as aforesaid; any Act or Acts of parliament to the contrary notwithstanding (c).

(c) See 8 & 9 Will. 3, c. 30, s. 1; Geo. 4, c. 32; and 30 & 31 Vict. 9 Will. 3, c. 11; 51 Geo. 3, c. 80; c. 59.
54 Geo. 3, c. 107, s. 1; 1 & 2

SETTLEMENT BY APPRENTICESHIP—THE INDENTURES.

Where more than the premium stipulated in the indenture was paid, *Decisions on* the indenture was void by 8 Anne, c. 9, s. 39, for not stating the full 12 *Anne, chap.* consideration, and no settlement was gained: *Rex v. Amersham*, 6 N. & 18. M. 12.

The consideration expressed in an indenture of apprenticeship was 4*l.* to be paid to the master by a public charity; but the apprentice's mother privately paid the master after the execution of the indenture 1*l.* in addition; held that though stamped it was void by 8 Anne, c. 9, s. 39, the full sum contracted for not being inserted: *Rex v. Baildon*, 3 B. & Ad. 427.

Where an instrument is not required by law to be stamped within a particular time after its execution, the court upon its being offered in evidence will not inquire when the stamp was affixed, nor, if a penalty was incurred, whether the proper penalty was paid on stamping: *Rex v. Preston*, 5 B. & Ad. 1028.

A printed indenture of apprenticeship executed on one day, but bearing date on another, is not void by 8 Anne, c. 9, and 5 Geo. 3, c. 46; and a settlement may be gained by service under it: *Rex v. Harrington*, 4 A. & E. 618.

SETTLEMENT BY APPRENTICESHIP—STAMPING INDENTURES.

A bequest of money to put out children apprentices as the testator's brother should think fit, is a public charity within 8 Anne, c. 9, s. 40: *Rex v. Clifton-upon-Dunsmore*, Burr. S. C. 697.

The 55 Geo. 3, c. 184, did not repeal the provision in 8 Anne, c. 9, as to the time for stamping indentures of apprenticeship: *Rex v. Church Hulme*, 5 B. & Ad. 1029.

Where a sum agreed to be given with an apprentice was five guineas, which sum was inserted in the indenture, and the duty paid accordingly, by 8 Anne, c. 9, held well, though in fact only four guineas were paid: *Rex v. Keyshnam*, 5 East, 308.

An indenture of apprenticeship executed before 44 Geo. 3, c. 98, must be stamped within the time prescribed by 8 Anne, c. 9, and if it be not, it was wholly void, and no settlement was gained under it: *Rex v. Chipping Norton*, 5 B. & Ald. 412.

An assignment of a parish apprentice is not subject to the regulations imposed by 8 Anne, c. 9, and need not therefore be stamped within two months, nor must the consideration paid for the assignment be set forth in it: *Rex v. Ide*, 2 B. & Ad. 266.

An indenture of apprenticeship is not void by 8 Anne, c. 9, although it was originally agreed that a premium of 20*l.* should be paid, and it was afterwards reduced to 19*l.* 19*s.* 6*d.* to reduce the amount of stamp duty: *Shepherd v. Hull*, 3 Camp. 180.

SETTLEMENT BY APPRENTICESHIP—STAMPING INDENTURES—*cont.*

Decisions on The premium given by the parish officers upon the binding out of a
 12 *Anne, chap.* pauper apprentice need not be set out in the indenture in words at length ;
 18. the indenture being exempt from stamp duty, under 8 Anne, c. 9, s. 40, and
 — the insertion of the premium being required for no other purpose than to
 ascertain the amount of the duty: *Rex v. Oadby*, 1 B. & Ald. 477.

The stamp is no part of the indenture, and a statement that it is duly stamped is sufficient: *Reg. v. Keighley*, 15 L. J. (N. S.) M. C. 102.

SETTLEMENT BY APPRENTICESHIP—CERTIFICATES.

An apprentice assigned by a certificate man to a master living in another parish gained a settlement in that parish: *Rex v. Petham*, Burr. S. C. 154; Str. 1147.

An apprentice gained a settlement if his master did not become a certificate man before a service of 40 days: *Rex v. Clisthydon*, Burr. S. C. 161.

The son of a certificate man born in the certificated parish was not restrained from gaining a settlement by apprenticeship elsewhere: *Rex v. Silton*, 1 Wils. 184; Burr. S. C. 269.

An apprentice bound to a certificate man in one parish after he purchased an estate in another gained a settlement by service of 40 days in such other parish: *Rex v. Bishopside*, Burr. S. C. 381; Sayer, 231.

An apprentice bound to a certificate man gained a settlement by serving him 40 days in a third parish: *Rex v. St. Peter's, in Nottingham*, Burr. S. C. 391; Sayer, 287.

If an apprentice were bound to a freeman, and before a service of 40 days was performed the master received a certificate, the subsequent service under the indentures did not gain a settlement: *St. Cuthbert's v. Westbury*, Burr. S. C. 470.

An apprentice to a certificate man in A. removed voluntarily with his master to B., where he continued 40 days, and afterwards married a woman living in C., but continued to serve his master by day in B., and to lodge with his wife in C. until the apprenticeship expired. He gained a settlement in B. notwithstanding the certificate: *Rex v. Spotland*, Burr. S. C. 527; Cald. 98.

An apprentice who has served three years out of four to a freeman could not gain a settlement by serving the remainder of his time, and with his original master's consent, to a certificate man in a different parish: *Rex v. Romsey, infra*, Burr. S. C. 640.

The son of a certificated person who is bound apprentice in the certificated parish might, on his indentures being cancelled, bind himself apprentice in a different parish, and if he gained a settlement under the second indenture, he might afterwards gain a settlement by hiring and service in the parish to which his father was certificated: *Rex v. Weddington*, Burr. S. C. 766.

If an apprentice be bound to a certificate man in A., and the certifying parish gave the master a new certificate to B., the apprentice gained a settlement by serving his master the last 40 days in A.: *Rex v. St. Peter's, in Derby*, 1 T. R. 218.

If an apprentice to a certificate man be assigned to a second master in the same parish, he could not gain a settlement in that parish by serving the second master: *Rex v. Hinckley*, 4 T. R. 371.

The apprentice of a master living at A. who had a certificate from B., but not delivered to the parish officers of A., might gain a settlement by such apprenticeship: *Rex v. Wensley*, 5 T. R. 154.

5 GEO. I. CHAP. 8.

AN ACT for the more effectual Relief of such Wives and Children as are left by their Husbands and Parents upon the Charge of the Parish.

WHEREAS divers persons run or go away from their places of abode into other counties or places, and sometimes out of the kingdom, some men leaving their wives, a child or children, and some mothers run or go away, leaving a child or children, upon the charge of the parish or place where such child or children was or were born, or last legally settled, although such persons have some estates which should ease the parish of their charge in whole or in part: May it please your Majesty therefore that it may be enacted, and be it enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that it shall and may be lawful for the churchwardens or overseers of the

[Churchwardens, &c.
may by warrant from two

SETTLEMENT BY APPRENTICESHIP—CERTIFICATES—*continued.*

A certificate extended to a wife, though married after it was granted; and no apprentice to such wife after the husband's death could gain a settlement in the certificated parish: *Rex v. Hampton*, 5 T. R. 266; 2 East, 281. *Decisions on 12 Anne, chap. 18.*

The son of a certificated person could not gain a settlement in the certificated parish, though the father died six months before the expiration of the apprenticeship: *Rex v. Alfreton*, 7 T. R. 471.

A person could not gain a settlement by hiring and service with the son of a certificated man continuing to reside in the certificated parish with his mother after the father's death, though the son were of age and carrying on business for himself; such circumstances not amounting to emancipation: *Rex v. Sowerby*, 2 East, 276.

An apprentice bound out of his father's certificated parish did not obtain a settlement therein by residence for more than 40 days in it before he left his master's service: *Rex v. Manningtree*, 6 M. & S. 214.

Where a pauper was bound apprentice to a certificate man, and during his apprenticeship, he being of the age of 18, his father gained a new settlement, and the pauper did not return to his father's house till after he was 21; held, that he was not emancipated, and that his settlement followed the new settlement of his father: *Rex v. Huggate*, 2 B. & Ald. 582.

A certificate man having come into a parish to settle in a tenement of 10*l.* per annum, was irremovable as soon as he went into the parish; but he could not gain a settlement there until he had resided 40 days: *Rex v. Nacton*, 3 B. & Ad. 543.

Under 33 Geo. 3, c. 54, s. 24 (repealed by 18 & 19 Vict. c. 63), which was in substance the same as 12 Anne, c. 18, s. 2, an apprentice bound to a person residing in parish under a certificate could not gain a settlement by parish apprenticeship, though the certificate was subsequently discharged and he afterwards continued to serve his master in the parish for 40 days. The binding to confer a settlement must be such as would at the time be effectual for that purpose: *Rex v. Leeds*, 4 B. & Ad. 248.

justices seize the goods, &c. of husbands and parents, who leave their wives and children upon the parish.

Such warrant to be confirmed at quarter sessions, who may make an order for sale, &c.]

poor (a) of such parish or place where any such wife, or child or children shall be so left, upon application to, and by warrant or order from any two justices of the peace, to take and seize so much of the goods and chattels, and receive so much of the annual rents and profits of the lands and tenements of such husband, father or mother, as such two justices of the peace as aforesaid shall order or direct, for or towards the discharge of the parish or place where such wife, child or children are left, for the bringing up and providing for such wife, child or children; which warrant or order being confirmed at the next quarter sessions, it shall be lawful for the justices of such quarter sessions to make an order for the churchwardens or overseers of the poor of such parish or place, to dispose of such goods and chattels by sale, or otherwise, or so much of them for the purposes aforesaid, as the court shall think fit, and to receive the rents and profits, or so much of them as shall be ordered by the sessions as aforesaid, of his or her lands and tenements, for the purposes aforesaid (b).

[Churchwardens, &c. to be accountable to justices in sessions.]

II. And be it enacted by the authority aforesaid, that the churchwardens and overseers aforesaid shall be accountable to the justices of the quarter sessions for all such money as they or any of them shall receive by virtue of this Act.

(a) See 11 & 12 Vict. c. 110, s. 8. 57, 58, 59, 69, 77, 78; 31 & 32 Vict.

(b) See 43 Eliz. c. 2, s. 6; 14 c. 122, ss. 33, 36; and 33 & 34 Vict. Car. 2, c. 12, s. 19; 5 Geo. 4, c. 83, c. 93, ss. 13, 14. ss. 3, 4; 4 & 5. Will. 4, c. 76, ss. 56,

9 GEO. I. CHAP. 7.

AN ACT for amending the Laws relating to the Settlement, Employment, and Relief of the Poor.

[3 Wm. & M. c. 11, s. 11.] WHEREAS by an Act of parliament made and passed in the third and fourth years of the reign of their late Majesties King William and Queen Mary, it was provided, that in every parish a book or books should be kept, wherein the names of all persons who did or might receive collections should be registered, with the time when they were first admitted to such relief and the occasion which brought them under that necessity; and that no such person should be allowed to have or receive

ORDER OF JUSTICES.

Decision on 5 Geo. I. c. 8, s. 1.

An order founded on 5 Geo. 1, c. 8, should state how much of the goods or rents of the fugitive should be seized by the parish officers; and the subsequent order of sessions should specify the quantum of relief to be appropriated out of the goods and rents so seized, and limit a period for such appropriation: *Stable v. Dixon*, 6 East, 163.

collection at the charge of the parish, but by authority, or under the hand of one justice of the peace residing in such parish, or if none there dwelling, in the parts near or next adjoining, or by order of the justices at their quarter sessions, except in case of pestilential diseases, plague, or small-pox: And whereas under colour of the proviso in the said Act, many persons have applied to some justices of peace, without the knowledge of any officers of the parish, and thereby, upon untrue suggestions, and sometimes upon false or frivolous pretences, have obtained relief, which hath greatly contributed to the increase of the parish rates: For remedy whereof, be it enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that, from and after the twenty-fifth day of March, which shall be in the year of our Lord one thousand seven hundred and twenty-three, no justice of peace shall order relief to any poor person dwelling in any parish, until oath be made before such justice of some matter which he shall judge to be a reasonable cause or ground for having such relief; and that the same person had by himself, herself, or some other, applied for relief to the parishioners of the parish, at some vestry or other public meeting of the said parishioners, or to two of the overseers of the poor of such parish, and was by them refused to be relieved, and until such justice hath summoned two of the overseers of the poor to show cause why such relief should not be given, and the person so summoned hath been heard, or made default to appear before such justice, anything in the said proviso, or any law to the contrary notwithstanding (c).

No poor to be relieved till oath made of a reasonable cause.

(c) As to this and s. 2, see 36 and the general order for accounts Geo. 3, c. 23; 59 Geo. 3, c. 12, s. 5; in Glen's Poor Law Board Orders, and 4 & 5 Will. 4, c. 76, ss. 53, 54; seventh edition.

ORDER OF MAINTENANCE.

Under 9 Geo. 1, c. 7, s. 1, an order of maintenance, whether made by the sessions or by one justice, must state that it was made upon oath that the pauper or some person on his behalf had applied to the overseers at some parish meeting for relief; that relief had been refused; and that the overseers had been summoned to show cause why it should not be granted: *Decisions on sect. 1.*
Rex v. Winship, Cald. 72; 5 Burr. 2677.

RIGHT TO RELIEF.

It was questioned whether parish officers were obliged to relieve poor who refused to go into the workhouse: *Rex v. Winship*, 5 Burr. 2677; Cald. 72.

It was not settled whether a person who applied for relief for one of his children, but not for himself, was entitled thereto, though he refused to go into the workhouse: *Rex v. North Shields*, 1 Doug. 331.

[Or longer
than the cause
continues.]

Penalty.

II. The person whom any such justice of peace shall think fit to order to be relieved, shall be entered in such book or books so to be kept by the parish, as one of those who is to receive collection, as long as the cause for such relief continues, and no longer; and no officer of any parish shall (except upon sudden and emergent occasions) bring to the account of the parish any monies he shall give to any poor person of the same parish, who is not registered in such book or books to be kept by the said parish, as a person entitled to receive collection, on pain of forfeiting the sum of five pounds, to be levied by distress and sale, by warrant of any two or more justices of the peace of the same county, who shall have examined into and found him guilty of such offence; which said sum shall be applied to and for the use of the poor of the said parish, by direction of the said justice or justices of the peace.

[Justices
dwelling out
of a county
may grant
warrants, &c.]

III. And for the greater ease of justices of the peace, whom his Majesty or his successors hath or shall by commission authorise to act as a justice of the peace for any county of this realm; Be it enacted, by the authority aforesaid, that if any such justice of the peace shall happen to dwell in any city, or other precinct that is a county of itself, situate within the county at large, for which he shall be appointed justice of peace, although not within the same county, it shall and may be lawful for any such justice of peace to grant warrants, take examinations, and make orders for any matters, which any one or more justice or justices of the peace may act in, at his own dwelling-house, although such dwelling-house be out of the county where he is authorized to act as a justice of peace, and in some city or other precinct adjoining, that is a county of itself; and that all such warrants, orders, and other act or acts of any justice of peace, and the act or acts of any constable, tithingman, headborough, overseer of the poor, surveyor of the highways, or other officer, in obedience to any such warrant or order, shall be as valid, good, and effectual, in the law, although it happen to be out of the limits of the proper precinct or authority: Provided always, that nothing in this Act contained shall extend to give power to the justices of peace for the counties at large, to hold their general quarter sessions of the peace in the cities or towns which are counties of themselves, nor to empower justices of peace, sheriffs, bailiffs, constables, headboroughs, tithingmen, borsholders, or any other peace officers of the counties at large, to act or intermeddle in any matters or things arising within cities or towns which are counties of themselves; but that all such actings and doings shall be of the same force and effect in law, and none other, as if this Act had never been made (a).

(a) See 28 Geo. 3, c. 49, s. 4; 11 & 12 Vict. c. 43; and 30 & 31 Vict. c. 106, s. 27.

IV. And for the greater ease of parishes in the relief of the poor, be it further enacted, by the authority aforesaid, that it shall and may be lawful for the churchwardens and overseers of the poor in any parish, town, township, or place, with the consent of the major part of the parishioners or inhabitants of the same parish, town, township, or place, in vestry or other parish or public meeting for that purpose assembled, or of so many of them as shall be so assembled, upon usual notice thereof first given, to purchase or hire any house or houses in the same parish, township, or place, and to contract (b) with any person or persons for the lodging, keeping, maintaining, and employing any or all such poor in their respective parishes, townships, or places, as shall desire to receive relief or collection from the same parish, and there to keep, maintain, and employ all such poor persons, and take the benefit of the work, labour, and service of any such poor person or persons who shall be kept or maintained in any such house or houses, for the better maintenance and relief of such poor person or persons, who shall be there kept or maintained; and in case any poor person or persons of any parish, town, township, or place, where such house or houses shall be so purchased or hired, shall refuse to be lodged, kept, or maintained in such house or houses, such poor person or persons so refusing, shall be put out of the book or books where the names of the persons who ought to receive collection in the said parish, town, township, or place, are to be registered, and shall not be entitled to ask or receive collection or relief from the churchwardens and overseers of the poor of the same parish, town, or township; and where any parish, town, or township shall be too small to purchase or hire such house or houses for the poor of their own parish only, it shall and may be lawful for two or more such parishes, towns, or townships or places, with the consent of the major part of the parishioners or inhabitants of their respective parishes, towns, townships, or places, in vestry or other parish or public meeting for that purpose assembled, or of so many of them as shall be so assembled upon usual notice thereof first given, and with the approbation of any justice of peace dwelling in or near any such parish, town, or place, signified under his hand and seal, to unite in purchasing, hiring, or taking such house, for the lodging, keeping, and maintaining of the poor of the several parishes, townships, or places so uniting, and there to keep, maintain, and employ the poor of the respective parishes so uniting, and to take and have the benefit of the work, labour, or service of any poor there kept and maintained, for the better maintenance and relief of the poor there kept, maintained, and employed; and that if any poor person or persons in the respective parishes, townships, or places so uniting, shall refuse to be lodged, kept, and maintained in the house, hired or taken for such uniting parishes,

[Churchwardens, &c. may purchase, &c. houses to lodge or employ the poor in.]

Poor refusing to be lodged, &c. are not entitled to relief.

One parish &c. being too small for such purchase, two may unite, &c.

(b) See 43 Eliz. c. 2, s. 4; 59 Geo. 3, c. 12, s. 8; and 4 & 5 Will. 4, c. 76, ss. 15, 23, 26, 49.

Church-
wardens, &c.
of one parish
may contract
with those of
another, &c.

Settlement to
be as before
removal.]

[Settlement,
how to be
acquired by
purchase.]

townships, or places, he, she, or they, so refusing, shall be put out of the collection book, where his, her, or their names were registered, and shall not be entitled to ask or demand relief or collection from the churchwardens and overseers of the poor in their respective parishes, townships, or places; and that it shall and may be lawful for the churchwardens and overseers of the poor of any parish, township, or place, with the consent of the major part of the parishioners or inhabitants of the said parish, township, or place where such house or houses is, are, or shall be purchased or hired for the purposes aforesaid, in vestry, or other parish or public meeting, for that purpose assembled, or of so many of them as shall be so assembled, upon usual notice thereof first given, to contract with the churchwardens and overseers of the poor of any other parish, township, or place, for the lodging, maintaining, or employing of any poor person or persons of such other parish, township, or place, as to them shall seem meet; and in case any poor person or persons of such other parish, township, or place, shall refuse to be lodged, maintained, and employed in such house or houses, he, she, or they, so refusing, shall be put out of the collection book of such other parish, township, or place where his, her, or their names were registered, and shall not be entitled to ask, demand, or receive any relief or collection from the churchwardens and overseers of the poor, of his, her, or their respective parish, township, or place: Provided always, that no poor person or persons, his, her, or their apprentice, child, or children, shall acquire a settlement in the parish, town, or place, to which she, he, or they, are removed by virtue of this Act, but that his, her, or their settlement, shall be and remain in such parish, town, or place, as it was before such removal, anything in this Act to the contrary notwithstanding.

V. From and after the twenty-fifth day of March, which shall be in the year of our Lord one thousand seven hundred and twenty-three, no person or persons shall be deemed, adjudged or taken to acquire or gain any settlement in any parish or place

CONCURRENCE OF PARISH OFFICERS.

*Decisions on
sect. 4.*

Under the 9 Geo. 1, c. 7, s. 4, it was not necessary that all the churchwardens and overseers should concur; the contract of the majority of them bound the rest: *Rex v. Beeston*, 3 T. R. 592.

EFFECT OF ORDER.

When relief was granted to a poor person, only such person, and not any of his family, was obliged to go into the workhouse under 9 Geo. 1, c. 7, s. 4: *Rex v. Haigh*, 3 T. R. 637.

for or by virtue of any purchase of any estate (c) or interest in such parish or place, whereof the consideration for such purchase doth not amount to the sum of thirty pounds, *bonâ fide* paid, for any longer or further time than such person or persons shall inhabit in such estate, and shall then be liable to be removed to such parish or place where such person or persons were last legally settled, before the said purchase and inhabitancy therein.

(c) See 4 & 5 Will. 4, c. 76, s. 68.

SETTLEMENT BY ESTATE—KIND OF ESTATE.

A copyhold estate for life, though under the value of 10*l.* a year, is a *Decisions on* sufficient estate to confer a settlement: *Harrow v. Edgware*, Bott.; *Foley*, *sect. 5*.
257.

The husband of an administratrix, who is entitled as a trustee to a lease for years, by residence thereon for 40 days, gained a settlement: *Mursley v. Grandborough*, Str. 97; 1 Sess. Ca. 122.

The descent of a copyhold estate to a certificate man, gave a settlement: *Burclear v. Eastwoodhay*, Str. 163.

An entire tenement of 10*l.* per annum, though it be in two parishes, gave a settlement to the certificate man in that parish where the house upon the farm is: *St. John's v. Anwell*, Str. 529.

If a man build a cottage on a waste, without licence, and after 20 years' quiet enjoyment, die possessed, his heir-at-law gains a settlement by residing 40 days in such cottage after his ancestor's death: *Ashbrittle v. Wyley*, Str. 608; 2 Sess. Ca. 121.

An estate being devised to trustees, to be sold to pay debts, and to divide the surplus, if any, between A., B., and C. A. has an equitable interest in the estate, and by residing upon it 40 days gained a settlement. A devisee is not a parishioner within 9 Geo. 1, c. 7: *Rex v. Wivelingham*, Doug. 767; Cald. 121.

The remainder of a term of 99 years, of a cottage of the value of 5*s.* a year, devised by a father to his son, will entitle the latter to a settlement, by residing on such estate for 40 days: *Rex v. Sundrish*, Burr. S. C. 7; Str. 983; 1 Sess. Ca. 200.

Renting a windmill of the value of 10*l.* a year gains a settlement, though security be given for the rent: *Rex v. Butley*, Burr. S. C. 107; Str. 1077.

A son, who after his father's death lives upon an estate for years during the remainder of a term, but does not take out administration until after the term expires, does not gain a settlement by his residence on such estate: *Rex v. Widworthy*, Burr. S. C. 109; Cald. 111.

The son and heir of a tenant, by the curtesy of an estate of 4*l.* a year, cannot, after his father's death, be removed from the parish where it lies to another place of settlement which his father had gained by renting above 10*l.* a year. It is not necessary that a child should be with its grandmother for nurture: *Rex v. Hasfield*, Burr. S. C. 147; Str. 1132.

Renting a tenement of 10*l.* a year, if fraudulent, did not gain a settlement: *Rex v. St. Nicholas*, in *Harwich*, Str. 1163; Burr. S. C. 171.

The remainder of a term purchased for 47*l.* is a sufficient estate to confer a settlement: *Rex v. Stainfield*, Burr. S. C. 205.

A conveyance from a father to his daughter in consideration of natural love and affection, of the residue of a term, determinable upon lives, is not a purchase within 9 Geo. 1, c. 7; and therefore a residence thereon will

SETTLEMENT BY ESTATE—KIND OF ESTATE—*continued*.

*Decisions on
sect. 5.*

not gain a settlement, although the original consideration paid by the father was only 20s.: *Rex v. Marwood*, Burr. S. C. 386; Cald. 124.

One of several next of kin cannot acquire a settlement by estate before administration: *Rex v. Lower Swell*, Burr. S. C. 436.

A tenement and land held for the remainder of a term of 99 years, determinable upon the death of the possessor and his daughter, gave a settlement to the husband of the daughter after a residence thereon for twenty years subsequent to the death of the father, although he died intestate, left five other children, and no administration was taken out: *Rex v. Cold Ashton*, Burr. S. C. 444.

If an estate were devised to the wife of a certificate man for her life, and they entered into and resided upon the same, they thereby gained a settlement: *Rex v. Shenston*, Burr. S. C. 468.

The family of a man who has an estate from year to year, cannot be removed therefrom while his interest continues, although he has gained a subsequent settlement in a different parish: *Rex v. Leeds*, Burr. S. C. 524.

The remainder of a term of years devised to four executors is a sufficient estate to give any of them who reside thereon for forty days, a settlement in the parish, although under 10*l.* a year: *Rex v. Uttoxeter*, Burr. S. C. 538.

A voluntary grant for life of a customary cottage to a daughter, is a sufficient estate to confer a settlement, though only of 4*l.* a year value: *Rex v. Ingleton*, Burr. S. C. 560.

If a woman purchase an estate under 30*l.* and marry, the estate is sufficient to gain an original settlement to the husband, and a derivative settlement to the wife, although insufficient to have given her one in her own right: *Rex v. Ilmington*, Burr. S. C. 566.

A cottage built on the waste after a possession of more than twenty years, although that possession was not adverse, is such an estate as would enable its possessor to gain a settlement: *Rex v. Garway*, Burr. S. C. 632.

The owner of a cottage on a waste who continues in possession for twenty years thereby gains a settlement, although he originally obtain such cottage by fraud: *Rex v. Bitton*, Burr. S. C. 631.

If a man marry a woman who is possessed of a cottage conveyed to her by a person who had been in possession for thirty years, he gained a settlement by forty days' residence on such estate: *Rex v. Brungwyn, Bott.*

If a pauper's grandmother leave him an annuity of 10*l.*, payable out of an estate consisting of personal property to the amount of 32*l.*, and an estate for years determinable on his mother's death, his residence on such estate will not gain him a settlement: *Rex v. Stockley Pomroy*, Burr. S. C. 762.

The widow of a man who died seised of a house, gained a settlement by residence for forty days in right of her dower, but she could not by such an estate communicate a settlement to a second husband until dower was assigned: *Rex v. Painswick*, Burr. S. C. 783.

The children of a certificate man might gain a settlement in the certificated parish, by dwelling in a cottage there under a will: *Rex v. Wobourn*, Burr. S. C. 785.

If a man who is insolvent has conveyed his estate to trustees, and afterwards, before the trust is performed, get fraudulently into possession, a residence of forty days will not give a settlement: *Rex v. St. Michael's, Bath*, Doug. 629.

Without administration, a person solely entitled, but in whom the whole interest does not vest for his own use, cannot by residence acquire a settlement: *Rex v. North Curry*, Cald. 137.

A surrender of an old lease which had been many years in the family,

SETTLEMENT BY ESTATE—KIND OF ESTATE—*continued.*

and the taking of a new one, is not a purchase within 9 Geo. 1, c. 7, and *Decisions on* will not prevent a settlement by residence: *Rex v. Tarrant Launceston*, *sect. 5.* Cald. 209.

A conveyance after marriage by the wife's father to the husband only of an estate under the value of 30*l.*, it appearing to be granted on natural affection, and intended for the use of both husband and wife, is not a purchase within 9 Geo. 1, c. 7, s. 5: *Rex v. Charlton*, Bott.; Cald. 416.

A grant of a copyhold with 1*s.* fine, 1*s.* heriot, and 1*s.* rent, is a purchase within 9 Geo. 1, c. 7, s. 1; but being under 30*l.*, does not confer a settlement: *Rex v. Warblington*, 1 T. R. 241.

If a woman on her marriage with a copyholder of a manor, where the widows are entitled to free bench, give a bond that the son of her intended husband by a former marriage shall have possession of part of the copyhold estate after the death of her husband, on condition of his repairing the part of the house reserved for her, and after the death of the husband deliver up possession to the son accordingly, he gains a settlement by forty days' residence on the estate: *Rex v. Lopen*, 2 T. R. 577.

A husband may gain a settlement by residing on an estate vested in trustees, for the separate use of his wife: *Rex v. Offchurch*, 3 T. R. 114.

A conveyance from a father to his son in consideration of natural love and affection, and of 10*l.*, is not a purchase within 9 Geo. 1, c. 7: *Rex v. Upton*, 3 T. R. 251.

If the mortgagee of several houses after recovering possession in ejectment, permit the mortgagor to inhabit one of them for a particular purpose, the latter gains no settlement: *Rex v. Catherington*, 3 T. R. 771.

If A., residing in a cottage of his own, grant it by lease and release to B. in fee, in consideration of 36*l.*, with a proviso "that A. shall live in and occupy the said cottage and appurtenances as he theretofore had done and then did, for life," B. only takes a remainder after an estate for life in A., and therefore has not such an interest during A.'s life as will enable him to gain a settlement by residence on the estate: *Rex v. Easington*, 4 T. R. 177.

The executor of a tenant from year to year of an estate under 10*l.* a year, may gain a settlement by residing on it forty days, though he do not prove the will: *Rex v. Stone*, 6 T. R. 295.

A cottage built on a spot of ground given to the father of the pauper, and which had continued uninterruptedly in the family near twenty years, is a sufficient estate to confer a settlement: *Rex v. Butterson*, 4 T. R. 554.

A cottage belonging to the grandfather of the pauper, whose mother on her father's death never reduced the estate into possession, gives a settlement to her son, who on her death takes the cottage in fee, but not to her husband, who does not take as tenant by the curtesy: *Rex v. Great Farringdon*, 6 T. R. 679.

A cottage, leased for 99 years, determinable on lives, purchased by the pauper's wife before marriage, was in the lifetime of her first husband conveyed by them to a trustee in trust that he should by sale or mortgage raise 10*l.* for the benefit of the parish, by which the family had been relieved to that amount, interest, and charges, and after payment of the same, in trust to re-assign the premises. The parties always continued in possession, and it did not appear whether the money was ever paid, or what was the value of the cottage. Held, that on the death of the first husband, the pauper who married the widow gained a settlement by residing forty days in the cottage of which she had retained the possession: *Rex v. Edington*, 1 East, 288.

Where a pauper purchased a leasehold tenement for less than 30*l.*, and afterwards conveyed the whole term to one, in trust to let the premises, and out of the rents and profits to repay himself 10*l.* advanced thereon, and

SETTLEMENT BY ESTATE—KIND OF ESTATE—*continued.*

*Decisions on
sect. 5.*

then to apply the rents and profits to the separate use of the pauper's wife during her life, and afterwards to the pauper's own use for life, if he survived her, and afterwards amongst the children; and the trustee suffered the pauper to continue to reside in the house for above forty days, till becoming chargeable to the parish, he was removed. Held, that he gained no settlement by such residence: *Rex v. Tarrant Launceston*, 3 East, 226.

One who is resident on an estate granted to him for lives in consideration of 2*l.* 2*s.* fine, and 1*s.* rent, cannot be removed therefrom; but *semble*, he could not gain a settlement by forty days' residence on his own estate under 9 Geo. 1, c. 7, the consideration being under 30*l.*: *Rex v. Martley*, 5 East, 40.

A sole next of kin has such an interest in a leasehold tenement of the intestate that she gains a settlement by residing 40 days in the same parish after the intestate's death before administration granted to her: *Rex v. Horsley*, 8 East, 405.

A guardian in soccage residing on the ward's estate for 40 days gains a settlement: *Rex v. Oakley*, 10 East, 491.

Where trustees of lands held in trust to pay 40*s.* out of the rents to the poor, and the residue to a schoolmaster to be nominated by them,—nominate a schoolmaster by an agreement by which they are to pay him less than such residue, such appointment, though irregular in its form, is sufficient to give him a life interest in the school-house, &c. of which he was put in possession, and to enable him to gain a settlement by 40 days' residence thereon: *Rex v. Owersby-le-Moor*, 15 East, 356.

An attainted felon, having been discharged on a pardon (the issuing of which there was some negative evidence of), afterwards purchased a copyhold for more than 30*l.*, to which he was admitted upon surrender, and resided on and received the issues and profits of it for nine years without impeachment of title, gained a settlement by such residence thereon for 40 days, and communicated such settlement to an unemancipated child, part of his family: *Rex v. Haddenham*, 15 East, 463.

A father, having purchased a tenement for less than 30*l.*, devised it in trust to be let to farm during his daughter's life, and to pay her the rents after deducting the expenses. By 40 days' residence thereon by permission of the trustees after her father's death, the daughter gained a settlement: *Rex v. Hulm East Waver Quarter*, 16 East, 127.

Where a pauper as a freeman was entitled during his residence in the town to a stinted common of pasture, and also a right to cut peat for his own use, and get limestone, &c., on a moor, and to put his children to the town-school free of expense, at which two of his children were placed at the time of his removal, but it did not appear that he had ever used the common of pasture, or had any cattle, it was held that these rights did not amount to such an estate as to make him irremovable: *Rex v. Warkworth*, 1 M. & S. 473.

The mother of an infant copyholder under 14 was holden to be guardian by law of the copyhold, there being no custom of the manor for appointing a guardian, and therefore entitled to reside irremovably on the estate: *Rex v. Wilby*, 2 M. & S. 504.

The father having gained a settlement by residence in a house on an estate, it was held that the son, who ceased to be part of his father's family 15 years after the building of the house, was entitled to the settlement which his father gained by residence in the house: *Rex v. Calow*, 3 M. & S. 22.

The taking a grant of a licence from the lord of a manor to erect a cottage on a piece of land, rendering an annual rent of 10*s.* 6*d.* as a quit rent, and also a grant of a licence to enclose a piece of ground for a garden to

SETTLEMENT BY ESTATE—KIND OF ESTATE—*continued.*

the cottage, both being parts of the waste, and building a cottage thereon, and residing in it a year and a half, were held not to confer a settlement; this being a license only, and not a grant of any interest in land: *Rex v. Horndon-on-the-Hill*, 4 M. & S. 562. *Decisions on sect. 5.*

One who, after the death of the testatrix, occupied by permission of the trustees until his death, a cottage in a township where lands devised were situated, did not acquire a settlement thereby, the rents and profits of the lands having been insufficient to pay testatrix's debts: *Rex v. Darlington*, 5 M. & S. 493.

There cannot be a guardian in soccage of an equitable estate; therefore where a pauper married the widow of a man who had paid for and had been let into possession of a freehold cottage, and had died, leaving a daughter, but without having had any legal conveyance executed to him in his life time, it was holden, that the pauper's residence in the cottage for 40 days did not confer a settlement on him, the widow not being guardian in soccage to her daughter: held also that the court will not take notice of doubtful equitable estates: *Rex v. Teddington*, 1 B. & Ald. 560.

Where there is no custom for that purpose, the lord of the manor cannot make a new grant of a copyhold; and if he do, the grantee acquires thereby no settlement by estate. A grant by the law of copyhold land, paying a yearly rent of 2s. 6d., is a purchase within 9 Geo. 1, c. 7, and if under 50l., confers no settlement: *Rex v. Hornchurch*, 2 B. & Ald. 189.

F., being seised in fee of a cottage, demised the same to the overseers for 1000 years, reserving a peppercorn rent, and continued to reside there. Being sick, his daughter and her husband came by permission of the parish officers to reside with and take care of him; after his death, the daughter being his heir, they continued to reside there above 40 days, claiming a right to the possession. Held, that they thereby gained a settlement, being entitled to the reversion, and the residence not being fraudulent: *Rex v. Staplegrove*, 2 B. & Ald. 527.

A lord of a manor granted a lease of a cottage for 31 years to A., who resided in it above a year, and died, leaving a widow and three daughters. Administration was granted to the widow, but no distribution of the estate was made. After his death the widow, and by her permission, one of the daughters and her husband resided in it some years. Held, that the daughter or her husband had not any equitable estate in the cottage, and that no settlement was gained by their residence in it: *Rex v. Berkswell*, Bott.; 1 B. & C. 542.

One who had purchased a house and paid 50l. for it, but did not take a conveyance, did not acquire by purchase an interest or estate sufficient to confer a settlement within 9 Geo. 1, c. 7, s. 5: *Rex v. Hagworthingham*, 1 B. & C. 634.

Circumstances under which the purchaser of an estate under a contract did not acquire an equitable estate so as to gain a settlement under 9 Geo. 1, c. 7, s. 5: *Rex v. Geddington*, 2 B. & C. 129.

A widow, before assignment of dower, has not such an interest in the land of which she is dowable as to be irremovable from the parish in which the land lies: *Rex v. Northweald Bassett*, 4 B. & C. 724.

A. made a parol agreement with B. for the purchase of a cottage and garden for 40l. A. took possession and paid 30l. on account, and resided on the premises. No conveyance was executed. After A. had been in possession 12 months he sold the property for 40l. to C., to whom he gave up possession. A. afterwards paid the remainder of the purchase money to B. Held, that A. did not gain any settlement by the purchase of an estate or interest within 9 Geo. 1, c. 7, s. 5: *Rex v. Llantillio Grosseyny*, 5 B. & C. 461.

A surrender of an old lease by a grandfather and great uncle, and the

SETTLEMENT BY ESTATE—KIND OF ESTATE—*continued*.

*Decisions on
sect. 5.*

taking a new lease by the grandson and great nephew at a nominal fine, is not a purchase within 9 Geo. 1, c. 7, s. 5: *R. v. Lydlinch*, 4 B. & Ad. 150.

A house in the parish of W. was let to A. and B. his wife, for their joint lives, and the life of the survivor. A. and B. were ejected wrongfully from the house, but their furniture and a person who had lodged with them remained in the house. Afterwards A. assisted the lessor to destroy the lease: held, that after these transactions, A. and B. continued irremovable from W., though they had become actually chargeable: *Rex v. Matlock*, 1 A. & E. 124; 3 L. J. M. C. 94.

A pauper, who was one of the co-heiresses of a testator, resided on the devised property for more than 40 days after the death of the wife of the testator, and until it was sold under the provisions of the will, when she received her share of the purchase-money. Held, that she had such a legal title coupled with an equitable interest as conferred a settlement by estate: *Reg. v. Burgate*, 23 L. J. M. C. 143; 18 Jur. 875; 23 L. T. 155.

The purchase of a term in an estate for a pecuniary consideration less than 30*l.* conferred no settlement after actual residence by virtue of 9 Geo. 1, c. 7, s. 5: *Wendron v. Stithians*, 4 E. & B. 147; 24 L. J. M. C. 1; 19 J. P. 39; S. C. *Reg. v. Wendron*, 24 L. T. 73.

In 1831, A. agreed with B. to build a house, according to certain specifications, on land then belonging to B., in consideration of which undertaking, and of an annual rent-charge of 25*s.*, a lease of the land for three lives was to be granted. The house was built at a cost of 85*l.*, whereupon the lease was granted. Held, that this was the purchase of an estate or interest for a consideration of more than 30*l.*, and therefore conferred a settlement: *Reg. v. Belford*, 3 B. & S. 662; 32 L. J. M. C. 156; 7 L. T. (N. S.) 785; S. C. *Belford v. Berwick-upon-Tweed*, 27 J. P., n, 119, 325.

SETTLEMENT BY ESTATE—VALUE OF ESTATE.

The purchasing of a copyhold estate, which with the fine and fees thereon amount to 30*l.*, is sufficient for the purpose of settlement, unless fraud: *St. Paul, Waldon v. Kempton*, Foley, 238.

A lease of 50 years, of a cottage worth 5*l.* a year, at 6*d.* a year rent, upon which the purchaser resides for 25 years, and then sells the remainder of the term for 32*l.*, is an estate sufficient to give a settlement: *Rex v. St. Mary, Whitechapel*, Burr. S. C. 55.

If a man purchase a house and curtilage for 39*l.* but pay only 9*l.* himself, the remainder being paid for by another, to whom he mortgaged the premises, and who after the expiration of four years entered under the mortgage and turned out the purchaser, yet this is a purchase of 30*l.*, and will gain a settlement: *Rex v. Telford*, Burr. S. C. 57; Str. 1014.

Being charged with, and paying the land-tax for a tenement under the value of 30*l.* gained a settlement: *Rex v. Worth*, Burr. S. C. 90.

Renting a windmill of the value of 10*l.* a year, gained a settlement, although security was given for the rent: *Rex v. Batley*, Str. 1077; Burr. S. C. 107.

The mortgagee of a term for 15*l.* to whom a sum of 30*s.* was due for interest, and 18*l.* 10*s.* more by bond and simple contract, who on the death of the mortgagor takes out administration as a principal creditor, and thereby enters and becomes possessed of the estate, gains a settlement by residence for 40 days: *Rex v. Stockland*, Burr. S. C. 169; Str. 1162.

A purchase for more than 30*l.* in respect of which the purchaser was rated to the land-tax, gained a settlement though part of the purchase money was borrowed on mortgage: *Rex v. Acton Beauchamp*, Burr. S. C. 326.

Being charged with, and paying the land-tax for a tenement under the value of 30*l.*, gained a settlement: *Rex v. Uffculme*, Burr. S. C. 430.

SETTLEMENT BY ESTATE—VALUE OF ESTATE—*continued.*

A son cannot derive a settlement from his father under a purchase for less than 30*l.*: *Rex v. Salford*, Burr. S. C. 516; 1 Bl. 433. *Decisions on sect. 5.*

The sum given for an estate is the true criterion of its value, and if that be under 30*l.* no settlement can be gained in respect of subsequent improvements: *Rex v. Dunchurch*, Burr. S. C. 553; W. Bl. 596.

A settlement could be gained in the certificated parish, by really a *bond fide* renting a tenement of the yearly value of 10*l.*: *Rex v. Framlingham*, Burr. S. C. 748.

Although the whole of it did not lie in the same parish: *Rex v. Bowling*, Burr. S. C. 177.

A grant of a copyhold with 1*s.* fine, 1*s.* heriot, and 1*s.* rent, is a purchase within 9 Geo. 1, c. 7, s. 5: *Rex v. Warblington*, 1 T. R. 241.

Where a person contracted for a copyhold estate for 39*l.*, mortgaged for 32*l.*, and paid 7*l.*, and was admitted subject to the mortgage, he did not gain a settlement under 9 Geo. 1. c. 7, s. 5: *Rex v. Mathingley*, 2 T. R. 12.

A conveyance from a father to his son in consideration of natural love and affection, and of 10*l.*, is not a purchase within 9 Geo. 1, c. 7, s. 5: *Rex v. Upton*, 3 T. R. 251.

The consideration expressed in the deed of conveyance was 28*l.*, but parol evidence was admitted to prove that 30*l.* was the real consideration: *Rex v. Scammonden*, 3 T. R. 474.

If A. agree to purchase a copyhold estate of B. for 60*l.*, which was then mortgaged to C. for 50*l.*, and pay the 10*l.*, and is admitted subject to the mortgage interest in C., and afterwards borrow 50*l.* of D. to pay off the mortgage, and then mortgage it to D. for 50*l.*, he gains a settlement by 40 days' residence: *Rex v. Chailey*, 6 T. R. 755.

Where a pauper purchased a tenement for more than 30*l.*, but paid down less, the residue remaining upon mortgage, and after residing for more than 40 days sold the tenement to a person who on the completion of the purchase paid the sum due on the mortgage to the original vendor, and the residue of the purchase to the pauper; at which time the pauper quitted the tenement, not having resided on it 40 days after the payment of such mortgage to the original vendor, no settlement was conferred on the pauper: *Rex v. Olney*, 1 M. & S. 387.

Where there was an incomplete purchase of a copyhold house, and the premises were afterwards restored to the vendor, it was held that no settlement was conferred on the purchaser: *Rex v. Long Bennington*, 6 M. & S. 403.

A. built a house on the waste of a manor by licence from the lord, resided in it two years, and then sold it to B. The latter sold it to C. for 30*l.*, but no conveyance was executed; C. resided in it five years, and paid 1*s.* per annum rent to the lord, and then sold his interest. No adverse claim was made; C., under these circumstances, did not acquire a settlement by purchase under 9 Geo. 1, c. 7, s. 5: *Rex v. Hagworthingham*, 1 B. & C. 634.

The sum paid by the purchaser of a copyhold estate to his attorney for the surrender, is no part of the consideration for the purchase within the meaning of 9 Geo. 1, c. 7, s. 5: *Rex v. Cottingham*, 7 B. & C. 603.

The father in consideration of natural affection and of 24*l.*, which he owed his son, made over to him premises in parish S., by verbal agreement only, and the son received the rents for three years, residing in S.: held that the son was a purchaser for less than 30*l.* within 9 Geo. 1, c. 7, s. 5, and gained no settlement: *Rex v. Piddlehinton*, 3 B. & Ad. 460.

From the terms of a conveyance, and state of the family, it was held that natural love and affection must be taken to have formed an ingredient in the consideration, and the purchase was not within 9 Geo. 1, c. 7, s. 5: *Rex v. Hatfield Broadoak*, 3 B. & Ad. 566.

SETTLEMENT BY ESTATE—VALUE OF ESTATE—*continued*.

*Decisions on
sect. 5.*

A pauper was held to have gained a settlement by purchase of an estate in land of the value of 30*l.* through the medium of a building society: *Reg. v. Carlton*, 19 L. J. M. C. 100.

SETTLEMENT BY ESTATE—RESIDENCE NECESSARY.

Living in a parish where a person has land gained a settlement: *Ryslip v. Harrow*, Sett. & Rem. 244; 2 Salk. 524; 5 Mod. 418.

The acquisition of an estate, without a residence of 40 days, will not gain a settlement: *Wookey v. Hinton Blewet*, Str. 476.

The residence need not be upon the estate; if the owner reside within the same parish it will suffice: *Rex v. Sowton*, Burr. S. C. 125.

If a person live in a parish where he has an estate in common with his mother and sister for 40 days, at different times, he thereby gains a settlement: *Rex v. St. Nyott's*, Burr. S. C. 132.

A residence of less than 40 days upon a man's own estate will not gain a settlement: *Rex v. West Shefford*, Burr. S. C. 307.

A pauper having a freehold estate in the parish of A., in the occupation of a tenant, was deemed to gain a settlement by residing thereon 40 days, with the licence of the tenant for the purpose of making some repairs, such residence being equivalent to residence in any other part of the parish: *Rex v. Houghton-le-Spring*, 1 East, 247.

While the pauper resided in the parish of B., a freehold estate descended to his wife and her sisters as coparceners in the same parish, and in a month after the pauper and his wife contracted to sell their share, but the conveyance was not actually executed for more than 40 days after their title accrued, the pauper acquired a settlement though the estate during all the time was in another's possession: *Rex v. Dorstone*, 1 East, 296.

Circumstances which constitute a "coming to settle" upon a tenement, and which joined with another residence in the parish, made above 40 days' residence, and conferred a settlement: *Rex v. Caton*, Bott.

SETTLEMENT BY ESTATE—CERTIFICATED PERSONS.

A certificate man gained a settlement by residing on his own estate, although the 9 Will. 3, c. 11, says that no certificate man shall gain a settlement by renting a tenement of 10*l.* a year, and although the estate was under that value: *Burclear v. Eastwoodhey*, Bott.; Str. 163; Sett. & Rem. 88; 10 Mod. 430.

A certificated man gaining a settlement in the certificated parish by estate, will, notwithstanding 12 Anne, c. 18, confer a settlement therein on his apprentice: *Ivinghoe v. Stonebridge*, Str. 265.

A certificate was avoided and a settlement gained in the certificated parish by renting a tenement at 10*l.* a year, although the whole of it did not lie in the same parish: *Rex v. Bowling*, Burr. S. C. 177.

A certificated person who resides 40 days on leasehold premises purchased by him, gains a settlement notwithstanding 9 Will. 3, c. 11, for an estate acquired by purchase as well as by descent, will avoid a certificate, though under the value of 10*l.* a year: *Rex v. Stansfield*, Burr. S. C. 205.

A certificate man might gain a settlement by purchase for himself, his wife and children, in the certificated parish: *Rex v. Deddington*, Str. 1193; Burr. S. C. 220; and also by estate, *Rex v. Shenston*, ib. 468.

A certificate person gained a settlement by possession of a tenement for twenty years in the certificated parish: *Rex v. Cold Ashton*, Burr. S. C. 444.

If the husband and wife were certificated, and the husband purchased an estate in the certificated parish, the widow and her children born under such certificate gained a settlement by residing 40 days thereon after the husband's death: *Rex v. Long Wittenham*, Bott.; Cald. 474.

VI. No person or persons whatsoever, who from and after the twenty-fifth day of March, in the year of our Lord one thousand seven hundred and twenty-three, shall be taxed, rated, or assessed to the scavenger or repairs of the highway, and shall duly pay the same, shall be deemed or taken to have any legal settlement in any city, parish, town, or hamlet, for or by reason of his, her, or their paying to such scavenger's rate or repairs of the highway as aforesaid, any law to the contrary in anywise notwithstanding (a). [Paying taxes to the scavenger gains no settlement.]

VII. And whereas there was a clause in the statute made in the eighth and ninth year of his late Majesty King William the Third, intituled "An Act for the supplying some Defects in the Law for the Relief of the Poor of this Kingdom," whereby it was enacted, that after the first day of May, one thousand six hundred and ninety-seven (b), all appeals against any order for the removing of any poor persons, should be heard at the quarter sessions of the county or division wherein the parish or place from whence such person should be removed doth lie and not elsewhere, except the liberty of Saint Alban's: Be it enacted, by the authority aforesaid, that it shall and may be lawful for the justices of the peace within the liberty of the borough of Saint Peter and hundred of Nassaborough, in the county of Northampton, to hear and determine all appeals to them made, against any order made for removal of any poor person, in their quarter sessions, as they might have done before the making of the said last-mentioned Act, anything therein or in this present Act contained to the contrary thereof in anywise notwithstanding (c). [8 & 9 Will. III. c. 30.]
Justices of borough of St. Peter and hundred of Nassaborough, in Northamptonshire, may determine appeals.]

VIII. And whereas several disputes and controversies have arisen and been concerning the time of notice to be given of appeals from orders of removals of poor persons: To prevent the same as much as may be for the future, be it enacted, by the authority aforesaid, that from and after the said twenty- [Reasonable notice is to be given of appeals.]

(a) See 3 Wm. & M. c. 11, s. 6; (b) See 8 & 9 Will. 3, c. 30, s. 6.
 21 Geo. 2, c. 10; 18 Geo. 3, c. 26; (c) See 8 & 9 Will. 3, c. 30, s. 8.
 and 43 Geo. 3, c. 161.

SETTLEMENT BY ESTATE—CERTIFICATED PERSONS—continued.

The question whether a voluntary grant of an estate conferred a settlement on a certificated man, was doubtful: *Rex v. Warblington*, 1 T. R. 241. Decisions on sect. 5.

A voluntary settlement of customary tenements under the value of 30l. is not a purchase within 9 Geo. 1, c. 7, s. 5, and therefore did not avoid a certificate: *Rex v. Ingleton*, Burr. S. C. 560.

The children of a certificate man might gain a settlement in the certificated parish by dwelling in a cottage there under a will: *Rex v. Wobourn*, Burr. S. C. 785.

A certificate granted to a son after his father had conveyed to him an estate in fee was discharged by the son afterwards residing 40 days on the estate: *Rex v. Upton*, 3 T. R. 251.

A devisee of an estate *per autre vie*, discharged a certificate, and a settlement was gained: *Rex v. Cassington*, 2. B. & Ad. 874.

fifth day of March, one thousand seven hundred and twenty-three, no appeal or appeals from any order or orders of removal of any poor person or persons whatsoever, from any parish or place to another, shall be proceeded upon in any court or quarter sessions, unless reasonable notice be given by the churchwardens or overseers of the poor of such parish or place, who shall make such appeal, unto the churchwardens or overseers of the poor of such parish or place from which such poor person or persons shall be removed, the reasonableness of which notice shall be determined by the justices of the peace at the quarter sessions to which the appeal is made; and if it shall appear to them that reasonable time of notice was not given, then they shall adjourn the said appeal to the next quarter sessions, and then and there finally hear and determine the same (a).

(a) See 5 Geo. 2, c. 19; 4 & 5 Will. 4, c. 76, s. 83; and 11 & 12 Vict. c. 31.

POOR REMOVAL—APPEAL.

*Decisions on
sect. 8.*

The court will not take notice of fraud in the acquisition of a settlement, unless the justices adjudge it so: *St. Paul, Walden v. Kempton*, Foley 238.

The sessions may adjourn the hearing, but cannot quash an order of removal for want of due notice of appeal: *Anon.* Foley, 261.

The want of time to inquire into the facts of the case is no excuse for not giving notice of appeal before the ensuing sessions: *Rex v. Silchester*, Burr. S. C. 551.

The notice of appeal required by 9 Geo. 1, c. 7, does not relate to the receiving, but to the hearing the appeal: *Rex v. Gloucestershire JJ.*, Doug. 191.

The sessions are bound to receive an appeal to an order of removal, though no notice has been given: *Rex v. Huntingdonshire*, Cald. 283.

The sessions are not bound to receive and adjourn the hearing of an appeal at the next sessions, if they think the appellants had sufficient time to come prepared to try it, and to give notice to the respondents: *Rex v. York N. R. JJ.*, 3 T. R. 150.

If upon appeal lodged against an order of removal, the sessions are of opinion that reasonable time has not been given by the appellant to the respondent, they cannot dismiss the appeal, but are bound by 9 Geo. 1, c. 7, s. 8, to adjourn the appeal to the next sessions: *Rex v. Buckinghamshire JJ.*, 3 East, 342.

The justices are bound by 9 Geo. 1, c. 7, s. 8, to receive and adjourn an appeal made to the next sessions, if no notice has been given to the respondents, though they should be of opinion that the order was made in sufficient time before the sessions to have enabled the appellants to give reasonable notice to the respondents of their appeal: *Rex v. Staffordshire JJ.*, 7 East, 549.

If the justices dismiss an appeal at an adjourned sessions without hearing it, on the ground that they have no authority to hear it for want of sufficient notice to the respondents according to a new rule of practice, but which was not known to the other side, a *mandamus* will lie to the justices to enter continuance and hear the appeal: *Rex v. Wiltshire JJ.* 10 East, 404.

Where an appeal having been adjourned, the justices dismissed it at the next sessions because in conformity with a rule of the sessions the appellant had not given notice of his intention to prosecute it at these sessions,

POOR REMOVAL—APPEAL—*continued*

the court granted a *mandamus* to the justices to hear the appeal: *Rex v. Lindsey JJ.*, 6 M. & S. 379. *Decisions on sect. 8.*

Where an appeal against an order of removal was dismissed on the ground that the appellant had not given the notice required by the rules of the justices, the court thinking it reasonable that the appeal should be heard granted a *mandamus* to the justices: *Rex v. Lancashire JJ.*, 7 B. & C. 691.

Where an appeal was entered at the Easter and respited until the Midsummer sessions, and on the 24th June a copy of the order of respite was served on the respondents without any notice of trial, and the respondents appeared at the following sessions in July, the sessions were held bound to hear the appeal though no other notice of trial had been given than the service of the order of respite: *Rex v. Lambeth*, 3 D. & R. 340.

Where a pauper was delivered to the officers of a hamlet, and the order of removal was directed to the parish of which the hamlet was a part, it was held that notice of appeal given in the name of the officers of the hamlet could not be objected to: *Rex v. Carmarthenshire JJ.*, 4 B. & Ad. 563.

A rule of sessions that when an appeal against an order of removal shall be entered and respited, notice thereof within one month after entry and respite shall be given to the removing parish is void; and where the sessions dismissed an appeal for want of such notice the court granted a *mandamus* to hear it: *Rex v. Norfolk JJ.*, 5 B. & Ad. 990.

The 9 Geo. 1, c. 7, s. 8, only applies to the first sessions after executing the order of removal: *Rex v. Monmouthshire JJ.*, 3 Dowl. 306.

Where the quarter sessions have dismissed an appeal upon a point of practice, subject to a case, which the applicants for it have not brought up, the court will not at their instance grant a *mandamus* to enter continuances and hear the appeal: *Rex v. York W. R. JJ.*; *Warmsworth v. Doncaster*, 1 A. & E. 606; 3 N. & M. 767.

The compulsory clause in 9 Geo. 1, c. 7, s. 8, does not extend to the notice of grounds of appeal: *Rex v. Kimbolton*, 6 A. & E. 603; 6 L. J. M. C. 90; 1 N. & P. 606.

Where an order is quashed merely because respondents decline going into their case, that is a decision on the merits: *Reg. v. Church Knowle*, 7 A. & E. 471.

No objection which is not stated in the grounds of appeal can be taken either at sessions or in the Court of Queen's Bench to an order of removal, although such objection appear on the face of the case sent up from sessions: *Reg. v. Costock*; *Reg. v. Stafford*, 1 P. & D. 414; 10 A. & E. 417; 8 L. J. M. C. 62.

Under 9 Geo. 1, c. 7, s. 8, and 4 & 5 Will. 4, c. 76, s. 81, the sessions cannot entertain an appeal against an order of removal where the notice of appeal and statement of grounds were given, not by the parish officers, but by individual ratepayers stating themselves to be aggrieved by the order: *Reg. v. Colbeck*, 12 A. & E. 161; 9 L. J. M. C. 61; 3 P. & D. 488.

Seem 9 Geo. 1, c. 7, s. 8, does not apply to a case where notice of appeal lies, but the statement of grounds of appeal has not been served in time: *Reg. v. Oundle*, 11 L. J. M. C. 79; 2 G. & D. 77.

If the court should be of opinion that the sessions had rightly disposed of an appeal against an order of removal upon the facts, they will refuse to interfere on motion for *mandamus*, although the reasons on which the decision rested be not satisfactory: *Reg. v. York W. R. JJ.*; *Longwood v. Halifax*, 11 L. J. M. C. 57, 1 C. & D. 630.

An order of removal under certain circumstances may be superseded after the removal has taken place: *Id.*

Seem, that a rule of sessions which requires that upon entry of an appeal, the original order of removal must be filed by the appellants with

*Decisions on
sect. 8.*

POOR REMOVAL—APPEAL—*continued.*

the clerk of the peace cannot be supported: *Reg. v. York W. R. JJ.*; *Longwood v. Halifax*, 11 L. J. M. C. 57, 1 G. & D. 630.

An application for a rule to justices to enter continuances and hear an appeal against an order of removal where they have dismissed the appeal at the trial on a preliminary point, should be made in the term following the sessions at which the judgment was given: *Reg. v. York W. R. JJ.*, 11 L. J. M. C. 80; 1 G. & D. 706.

Where the sessions dismiss an appeal on a preliminary point, at the same time tendering the appellants a case, which they decline to accept, the latter are not thereby precluded from applying for a *mandamus* to enter continuances and hear it: *Reg. v. Cheshire JJ.*, 11 L. J. M. C. 84; 1 Dowl. 576.

An order to supersede an order of removal is too late after the appellants have entered an appeal against the order; but where the appellants give neither notice nor ground of appeal until after the removal of the paupers and an entry of an appeal, and the respondents on being afterwards served with grounds of appeal seek to abandon their order, *semble*, the sessions should not give costs to the appellants: *Reg. v. Brighton*, 11 L. J. M. C. 106; 2 G. & D. 88.

The quarter sessions have no jurisdiction to enter an appeal against an order of removal on the motion of the respondents, they having received notice of appeal, and to confirm the order in the absence of the appellants. Where the sessions have made a false entry on their records, a *mandamus* lies to compel the erasure of it, and will be granted where it is essential to the furtherance of justice: *Reg. v. York W. R. JJ.*, 12 L. J. M. C. 148.

The respondents on the hearing of an appeal, may prove their case by a witness not produced before the removing justices; and may omit calling a witness who appeared before the justices, though the appellants require it, and the witness is in court: *Reg. v. Yelverton*, 14 L. J. M. C. 78; 6 Q. B. 801.

A *mandamus* to the sessions to hear an appeal must be applied for promptly: *Drighlington v. Pudsey*, 1 G. & D. 706.

If a rule *nisi* for a *mandamus* to hear an appeal has been obtained upon affidavits stating imperfectly the grounds upon which the sessions proceeded in their judgment, and the facts omitted are substantial and material to the case, the court will discharge the rule with costs: *Reg. v. York W. R. JJ.*, 14 L. J. M. C. 119.

The words "at least" exclude both the day of doing a thing and the day when another event is to take place, and the fraction of a day cannot be considered so as to render the service of a notice of appeal good. The time within which notice of appeal may be given ought to be computed up to the day on which the appeal was entered, and not to the day on which the appeals are heard: *Reg. v. Middlesex JJ.*, 14 L. J. M. C. 139; 9 J. P. 389.

A rule of practice with regard to notice of trial of an appeal though unnecessary, if not unreasonable, will not be interfered with by the court: *Reg. v. Montgomeryshire JJ.*, 14 L. J. M. C. 142; 9 J. P. 389.

If the sessions be of opinion that an appeal was meant to be entered against a real order, the court will compel them by *mandamus* to enter continuance and hear the appeal: *Reg. v. Middlesex JJ.*, 15 L. J. M. C. 100; 10 J. P. 309.

Where an appeal against an order of removal has been entered and respited to the following sessions, that court has power further to respite the hearing of the appeal, although no notice or grounds of appeal have, prior to such sessions, been served upon the respondents: *Reg. v. Lancashire JJ.*; *Batley v. Ashton-under-Lyne*, 17 L. J. M. C. 45; 11 J. P. 820.

Where grounds of appeal stated a settlement by reason of the pauper's mother being entitled to, and in possession of a freehold tenement, situate

POOR REMOVAL—APPEAL—*continued.*

in the repondent parish, and having resided there for forty days up to and at the time of the order, the pauper being unemancipated, and it was not stated whether the estate was purchased or how acquired; it was held, that upon grounds so generally stated, the appellants could not prove that the mother had purchased a freehold estate in the parish, and resided thereon: *Reg. v. Rhyddlan*, 14 Q. B. 327. *Decisions on sect. 8.*

The overseers of a parish, on which an order of removal was made by justices for the borough of C., which had no grant of a separate court of quarter sessions, gave a notice of appeal "at the next general quarter sessions of the peace to be holden in and for the borough of C." Afterwards they gave notice of trial for the county sessions. Upon the appeal coming on to be tried there, the respondents objected to the notice as invalid; and the quarter sessions so held, and on that ground refused to hear the appeal. Held, that the sessions ought to have considered whether it was a reasonable notice; and as, instead of so doing, they held the notice to be a nullity, a rule for a *mandamus* to hear the appeal was made absolute: *Reg. v. Buckinghamshire JJ.*, 18 Jur. 1079.

At the hearing of an appeal the respondents objected that the appellants could not be heard, the original order not being produced, and no notice to produce it having been served. The sessions dismissed the appeal. Subsequently the pauper was removed, and the appellants appealed to the next quarter sessions, but the court refused to entertain the appeal. Held (1) the first appeal was properly dismissed, the practice of the court requiring production of the original order; (2) there was no right of appeal upon the subsequent removal of the pauper: *Reg. v. Peterborough JJ.*, 18 L. J. M. C. 79.

Sessions have no power to make a rule of practice requiring notice of previous entry and respite of an appeal to be given to the respondents eight days before the sessions next after such entry and respite: *Reg. v. Surrey JJ.*, 18 L. J. M. C. 175; 13 J. P. 331.

A notice of appeal against an order of removal by two county justices from a township within a borough having its own quarter sessions and a charter without a non-intermittant clause, was given in time for the quarter sessions for the county, and, after the twenty-one days, countermanded as to the county sessions, but continued for the borough sessions. Held, that the appellants were entitled to have the appeal tried at the borough sessions: *Reg. v. Recorder of Liverpool*, 14 J. P. 782; 4 N. S. C. 410.

A notice of appeal against an order of removal may be signed and given by an attorney on behalf of the parish officers of the appellant parish: *Reg. v. Middlesex JJ.*, 20 L. J. M. C. 42; 14 J. P. 736.

A notice of appeal signed by an attorney "for and on behalf" of the appellant parish was valid within 9 Geo. 1, c. 7, s. 8: *Reg. v. Carew*, 20 L. J. M. C. 44.

An erroneous statement in a notice of appeal of the court to which it was to be made may be rejected as surplusage: *Reg. v. Buckinghamshire JJ.*, 19 J. P. 148.

Appellants having acted upon a notice of appeal to the borough sessions, cannot afterwards treat it as a notice of appeal to the county sessions; but where the notice erroneously states an intention to appeal to a borough sessions, and no steps are taken upon it by either party, the words relating to the place may be treated as surplusage, and the notice as a notice to the county sessions: *Reg. v. Salop JJ.*, 4 E. & B. 257; 24 L. J. M. C. 14; 19 J. P. 149; 18 Jur. 1080.

An order of removal was made on 13th September, 1858, notice of appeal was given on the 2nd October, and by the practice of the sessions ten days' notice of appeal was required. The next sessions were held on the 18th October, when the appellants entered and respited their appeal. On the

[Justices how to relieve the appellant on undue removals.]

IX. And for the preventing of vexatious removals, be it further enacted, by the authority aforesaid, that from and after the twenty-fourth day of June, in the year of our Lord one thousand seven hundred and twenty-three, if the justices of the peace shall, at their quarter sessions, upon an appeal before them there had concerning the settlement of any poor person, determine in favour of the appellant, that such poor person or persons was or were unduly removed, that then the said justices shall, at the same quarter sessions, order and award to such appellant so much money, as shall appear to the said justices to have been reasonably paid by the parish, or other place, on whose behalf such appeal was made for or towards the relief of such poor person or persons, between the time of such undue removal and the determination of such appeal; the said money so awarded to be recovered in the same manner as costs and charges upon an appeal are prescribed to be recovered by the said statute made in the ninth year of his late Majesty King William the Third, intituled "An Act for supplying some Defects in the Laws for the Relief of the Poor of this Kingdom" (a).

8 & 9 Will. III. c. 30.]

(a) 5 Geo. 2, c. 19; 4 & 5 Will. 4, c. 76, ss. 79—83; and 11 & 12 Vict. c. 31.

POOR REMOVAL—APPEAL—continued.

Decisions on sect. 8.

18th December appellants served on the respondents a notice of their intention to try the appeal at the sessions to be held on 4th January, 1859, and grounds of appeal. This was held to be a good notice, and that the appellants had a right to try at the January sessions because the October sessions had adjourned the appeal till January, although in fact they ought not to have adjourned it: *Reg. v. Skircoat*, 5 Jur. (N. S.) 1010; 33 L. T. 300.

Entering and respiting should not be as a matter of course. The sessions should in all cases exercise its judgment whether the justice of the case requires that it should be adjourned: *Reg. v. Peterborough JJ.*, 21 J. P. 324; 22 J. P. 20; 26 L. J. M. C. 153.

POOR REMOVAL—COSTS OF APPEAL AND MAINTENANCE.

Decisions on sect. 9.

The 9 Geo. 1, c. 7, lodged a discretionary power in the justices as to costs and maintenance: *Reg. v. Nottingham JJ.*, 1 Sess. Ca. 330.

Mandamus lies to allow for a pauper's maintenance from the time of removal till the order is discharged by the sessions on appeal: *St. Mary's, Nottingham v. Kirklington*, 2 Sess. Ca. 67.

Where an order of removal has been executed, and by consent of the removing parish and the justices it is suspended and the paupers taken back, it is in the discretion of the sessions to enter an appeal against the order or not, according as they may think justice requires, in order to compel the respondents to pay costs of maintenance incurred by the appellants before the order was suspended: *Reg. v. Norfolk JJ.*, 5 B. & Ald. 484.

Where an order of removal was quashed at sessions upon appeal, and the justices refused to grant the costs incurred by the appellant parish, between the time of the removal of the pauper and the hearing of the appeal, the court granted a *mandamus* against them: *Reg. v. Monmouthshire JJ.*, 12 L. J. M. C. 126.

5 GEO. II. CHAP. 19.

AN ACT to oblige the Justices of the Peace at their General or Quarter Sessions to determine Appeals made to them according to the Merits of the Case, notwithstanding Defects of Form in the original Proceedings; and to oblige Persons suing forth Writs of *Certiorari* to remove Orders made on such Appeals into His Majesty's Court of King's Bench, to give Security to prosecute the same with Effect (*a*).

WHEREAS in many cases where His Majesty's justices of the Preamble.

peace by law are empowered to give or make judgments or orders, great expenses have been occasioned by reason that such judgments or orders have, on appeals to the justices of the peace at their respective general or quarter sessions, been quashed or set aside upon exceptions or objections to the form or forms of the proceedings, without hearing or examining the truth and merits of the matter in question between the parties concerned: Therefore to prevent the same for the future, may it please your most excellent Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that after the twenty-fourth day of June, one thousand seven hundred and thirty-two, upon all appeals to be made to the justices of the peace at their respective general or quarter sessions to be holden for any county, riding, city, liberty, or precinct, within that part of Great Britain called England, against judgments or orders given or made by any justices of the peace as aforesaid, such justices so assembled at any general or quarter sessions shall, and they are hereby required from time to time, within their respective jurisdictions, upon all and every such appeals so made to them, to cause any defect or defects of form that shall be found in any such original judgments or orders, to be rectified and amended without any cost or charge to the parties concerned, and after such amendment made shall proceed to hear, examine, and consider the truth and merits of all matters concerning such original judgments or orders, and likewise to examine all witnesses upon oath, and hear all other proofs relating thereto, and to make such determinations thereupon as by law they should or ought to have done, in case there had not been such defect or want of form in the original proceeding; any law, usage, or custom to the contrary notwithstanding (*b*).

After June 24, 1732, justices may rectify defects of form on appeals,

and may proceed to determine them.

(*a*) See 5 & 6 Wm. & M. c. 11, s. 3; 8 & 9 Will. 3, c. 33; 13 Geo. 2, c. 18, s. 5; and 5 & 6 Will. 4, c. 33, ss. 1, 2. (*b*) See 9 Geo. 1, c. 7, ss. 8, 9; 4 & 5 Will. 4, c. 76, ss. 79—83; and 11 & 12 Vict. c. 31.

II. And whereas divers writs of *certiorari* have been procured to remove such judgments or orders into His Majesty's court of King's Bench at Westminster, in hopes thereby to discourage and weary out the parties concerned in such judgments or orders by great delays and expenses: Be it therefore enacted, by the authority aforesaid, that no *certiorari* shall be allowed to remove any such judgment or order, unless the party or parties prosecuting such *certiorari* before the allowance thereof, shall enter into a recognizance with sufficient sureties before one or more justices of the peace, of the county or place, or before the justices at their general quarter sessions or general sessions, where such judgment or order shall have been given or made, or before any one of His Majesty's justices of the said court of King's Bench, in the sum of fifty pounds, with condition to prosecute the same at his or their own costs and charges with effect, without any wilful or affected delay, and to pay the party or parties, in whose favour and for whose benefit such judgment or order was given or made, within one month after the said judgment or order shall be confirmed, their full costs and charges, to be taxed according to the course of the court where such judgments or orders shall be confirmed; and in case the party or parties prosecuting such *certiorari* shall not enter into such recognizance, or shall not perform the conditions aforesaid, it shall and may be lawful for the said justices to proceed and make such further order or orders for the benefit of the party or parties for whom such judgment shall be given, in such manner as if no *certiorari* had been granted (a).

No *certiorari* to be allowed to remove justices' orders, without a recognizance of 50*l.* to prosecute to effect.

On refusal of recognizance justices to proceed.

Recognizances to be certified into the King's Bench.

III. The recognizance and recognizances to be taken as aforesaid, shall be certified into the court of King's Bench at Westminster, and there filed with the *certiorari* and order, or judgment removed thereby; and if the said order or judgment shall be confirmed by the said court, the persons entitled to such costs for the recovery thereof, within ten days after

(a) See 13 Geo. 2, c. 18, s. 5; and 7 & 8 Vict. c. 101, s. 35.

POOR REMOVAL—AMENDMENT OF ORDER.

Decisions on 5 Geo. II. c. 19, s. 1.

The sessions may, by 5 Geo. 2, c. 19, alter the name of the place of removal to the name of the place of settlement, if the error appear to be a clerical error only: *Rex v. Harrow-on-the-Hill*, Bott.

The sessions cannot amend an order in matter of substance, but only for defects of form appearing on the face of the order: *Rex v. Great Bedwin*, Burr. S. C. 163.

RECOGNIZANCE.

Decisions on *ib.* s. 2.

The party prosecuting a *certiorari* to remove a conviction must himself enter into recognizances: *Rex v. Boughey*, 4 T. R. 281.

The recognizance must be for the entire sum and not for separate sums: *Rex v. Dunn*, 8 T. R. 217.

The recognizance under 5 Geo. 2, c. 19, s. 2, must be entered into by

demand made of the person or persons who ought to pay the said costs, upon oath made of the making such demand and refusal of payment thereof, shall have an attachment granted against him or them by the said court for such contempt, and the said recognizance so given, upon the allowing of such *certiorari*, shall not be discharged, until the costs shall be paid, and the order so confirmed shall be complied with and obeyed.

Attachment
for contempt.

13 GEO. II. CHAP. 18.

AN ACT to continue several Laws therein mentioned; * *
and for limiting the Time for suing forth Writs of *Certiorari* upon Proceedings before Justices of the Peace;

* * * * *

V. And for the better preventing vexatious delays and expense, occasioned by the suing forth writs of *certiorari*, for the removal of convictions, judgments, orders, and other proceedings before justices of the peace, be it further enacted by the authority aforesaid, that, from and after the twenty-fourth day of June, which shall be in the year of our Lord one thousand seven hundred and forty, no writ of *certiorari* shall be granted, issued forth or allowed, to remove any conviction, judgment, order or other proceedings had or made by or before any justice or justices of the peace of any county, city, borough, town corporate, or liberty, or the respective general or quarter sessions thereof, unless such *certiorari* be moved or applied for within six calendar months next after such conviction, judgment, order or other proceedings shall be so had or made, and unless it be duly proved upon oath, that the said party or parties suing forth the same, hath or have given six days' notice thereof in writing to the justice or justices, or to two of them (if so many there be) by and before whom such conviction, judgment, order or other proceedings shall be so had or made, to the end that such justice or justices, or the parties therein concerned, may show cause, if he or they shall so think fit, against the issuing or granting such *certiorari* (b).

Writ of *certiorari*,
how to be
applied for.

(b) See 5 & 6 Wm. & M. c. 11, c. 19, ss. 2 & 3; 5 & 6 Will. 4, c. 33, s. 3; 8 & 9 Will. 3, c. 33; 5 Geo. 2, ss. 1 & 2.

RECOGNIZANCE—continued.

one or more of the inhabitants on behalf of themselves and the other parishioners, and also by sureties; and where the *certiorari* had been allowed on an insufficient recognizance, the court refused to quash the *certiorari*, but quashed the allowance and enlarged the return to the writ, sending it back to the sessions in order that it might be duly allowed after the parties prosecuting the writ should have entered into a proper recognizance: *Rex v. Abergele*, 5 A. & E. 795; 7 L. J. M. C. 109.

Under 5 Geo. 2, c. 19, s. 2, an order removed by *certiorari* is "confirmed" by simply discharging the rule for quashing it: *Reg. v. Latchford*, 6 Q. B. 567; 14 L. J. M. C. 20; 9 J. P. 132.

Decisions on
5 Geo. II. c. 19,
s. 2.

CERTIORARI.

Decisions on
13 Geo. II. c.
18, s. 5.

Certiorari, to remove an order appealed against, may be directed to the sessions and returned by them: *Rex v. Warminster*, Stra. 470.

But only in those cases where the time for appealing is limited: *Rex v. Borough of Warwick*, Str. 991.

Several orders may be removed by one *certiorari*, and where an appeal is given, but no time limited in which it is to be brought, the writ may be sued out before appeal: *Rex v. Harman*, Andr. 343.

But not until after the next sessions except by the person who has the right of appealing: *Rex v. Houlditch*, Bott.

Certiorari lies after neglect to appeal to the next sessions, and appeal dismissed at subsequent sessions: *Rex v. Hanley*, Cald. 172.

The return to *certiorari* need not be under seal: *Rex v. Pickersgill*, Cald. 297.

Certiorari to remove a conviction must be within six months after the date of the conviction: *Rex v. Boughey*, 4 T. R. 281.

The notice must be given six days before the making of the motion to show cause why a *certiorari* should not be granted: *Rex v. Glamorgan-shire JJ.*, 5 T. R. 279.

A power given to sessions finally to determine an appeal, does not take away *certiorari*: *Rex v. Jukes*, 8 T. R. 542.

If an order of sessions be made subject to the opinion of the court upon a case, the *certiorari* must be applied for within six months after making the order, and not within six months after settling the case: *Rex v. Sussex JJ.*, 1 M. & S. 631.

A notice of application for a *certiorari*, signed in the name of a solicitor who describes himself "solicitor for the present churchwardens and overseers of M.," is sufficiently signed pursuant to 13 Geo. 2, c. 18, s. 5: *Reg. v. Solly*, 9 Dowl. 115.

For obtaining a *certiorari* on behalf of a parish to remove an order of sessions, a notice to the justices, signed by the attorney for the parish, stating the intention of the parish to apply for such writ, is a sufficient notice by "the party or parties suing forth the same," within 13 Geo. 2, c. 18, s. 5: *Rex v. Abergelle*, 5 A. & E. 795; 7 L. J. M. C. 109.

Under 13 Geo. 2, c. 18, s. 5, notice to the justices of an application for a *certiorari* to bring up their order should state that the notice is given by the person suing forth the *certiorari*, and should specify such person. The person suing forth the writ should be identified on affidavit with the prosecutor named in the notice, and the parties therein named with those on whom the notice has been served. It is not enough that the person giving the notice is the only person making the affidavit in support of the rule on the merits; or that from the affidavit it appears that an order was made by justices of the same name as those to whom the notice is given, and was of the same date and to the same effect as that described in the notice and the rule *nisi*. The objection to the notice is not cured by the rule *nisi* being enlarged by consent: *Reg. v. How*, 11 A. & E. 159; 10 L. J. M. C. 8.

On a motion for a *certiorari* to remove an order of quarter sessions on affidavit that a notice of the application was served on justices "who were present at the trial or hearing" of the appeal is sufficient; and a notice signed by A. B., attorney for the respondents, who are all named in the body of it, is sufficient: *Reg. v. Wiltshire JJ.*, 10 L. J. M. C. 25; 4 D. P. C. 524.

A notice of an application for a *certiorari* signed "W. and S., attorneys for the overseers of the parish of K.," is sufficiently signed: *Reg. v. Westmorland JJ.*, 12 L. J. M. C. 113.

The rule that a *certiorari* to remove an order ought not to issue until the time for appealing against the order has expired, applies only where the

16 GEO. II. CHAP. 18.

AN ACT to empower Justices of the Peace to act in certain Preamble.

Cases relating to Parishes and Places to the Rates and Taxes of which they are rated or chargeable (a).

WHEREAS doubts have arisen whether, according to the laws and statutes now in force, His Majesty's justices of the peace may lawfully act in any case relating to the parishes or places, to the rates and taxes of which such justices respectively are rated or chargeable: May it please your Majesty that it may be enacted, and be it enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that it shall and may be lawful to and for all and every justice or justices of the peace for any county, riding, city, liberty, franchise, borough, or town corporate, within their respective jurisdictions, to make, do, and execute all and every act or acts, matter or matters, thing or things, appertaining to their office as justice or justices of the peace, so far as the same relates to the laws for the relief, maintenance, and settlement of poor persons; for passing and punishing vagrants; for repair of the highways; or to any other laws concerning parochial taxes, levies or rates; notwithstanding any such justice or justices of the peace is or are rated to or chargeable with the taxes, levies or rates within any such parish, township, or place affected by any such act or acts of such justice or justices as aforesaid (b).

Justices may enforce the laws relating to parish taxes, &c. though they are chargeable themselves.

* * * * *

(a) See 17 Geo. 2, c. 38.

(b) See 5 & 6 Vict. c. 57, s. 15.

CERTIORARI—continued.

certiorari is prayed for by the party in whose favour the order is made: *Reg. v. Willatts*, 14 L. J. M. C. 157. *Decisions on 13 Geo. II. c. 18, s. 5.*

A notice to justices of an intention to move for a *certiorari* in six days from the giving of the notice, or as soon after as counsel can be heard, is sufficient: *Reg. v. Rose*, 15 L. J. M. C. 6.

Where a whole term has elapsed after a case granted by an order of sessions has been brought up by *certiorari*, it is too late to quash the *certiorari* on the ground that although the affidavits on which it was obtained alleged service of notice on two justices present at the time of the making of the order, one of those justices was in fact not then present: *Reg. v. Basingstoke*, 19 L. J. M. C. 28.

Notice of an intention to move for a *certiorari* under 13 Geo. 2, c. 18, s. 5, would be properly served if served on a justice who, being an interested party, was present at the hearing of an appeal, though he took no part in the proceedings, as a justice "by and before whom the order of sessions was made." A statement in the notice that application would be made for a *certiorari* "on behalf of the inhabitants" of the respondent parish, or signed "J. M., attorney for the inhabitants of the respondent parish," is sufficient: *Reg. v. Suffolk JJ.*, 18 Q. B. 416; 21 L. J. M. C. 169; 16 J. P. 296.

Proviso.

III. Provided always, that this Act, or anything therein contained, shall not authorize or empower any justice or justices of the peace, for any county or riding at large, to act in the determination of any appeal to the quarter sessions for any such county or riding, from any order, matter, or thing relating to any such parish, township, or place where such justice or justices of the peace is or are so charged, taxed, or chargeable as aforesaid, anything herein contained to the contrary in any wise notwithstanding.

CERTIORARI—continued.

Decisions on
13 *Geo. II. c.*
18, s. 5.

If affidavits be left at judges' chambers to be laid before the judge the next day, being the last day of the six months, the application is in time, though the judge do not sit at chambers till a day after the six months have expired: *Reg. v. Allen*, 33 L. J. M. C. 98.

POOR REMOVAL—INTERESTED JUSTICES.

Decisions on
16 *Geo. II. c.*
18, s. 3.

An order of removal having been made by two justices, one of whom was an inhabitant of the parish from which the pauper was sent, was therefore invalid and quashed: *Rex v. Great Chart*, Burr. S. C. 194; Str. 1173.

On an appeal to the sessions against an order of removal, those justices were rated inhabitants of the contending parishes could not vote: *Rex v. Yarpole*, 4 T. R. 71.

The court quashed an order of sessions confirming an order of removal, because two of the justices on the bench who voted for the confirmation were rated inhabitants of the removing parish: *Reg. v. Rishton*, 1 Q. B. 479; 10 L. J. M. C. 103.

Justices who are ratepayers in a parish interested in an appeal cannot take part in the proceedings; and if they do, though *certiorari* may be taken away by statute, it will nevertheless be granted on affidavit of the facts. If a party to the appeal assent to the disqualified justices acting, he cannot afterwards object: *Reg. v. Cheltenham*, 1 Q. B. 467; 10 L. J. M. C. 90.

During the trial of an appeal against an order of removal at the county quarter sessions, which was confirmed with costs, F. S., one of the magistrates for the county, and a rated inhabitant of the appellant parish, sat on the bench, and on several occasions spoke to the chairman, and referred to documents put in evidence. The presence of F. S. being objected to, on the ground that he was an interested party, he admitted the fact; and the chairman stated that F. S. would take no part in the proceedings: but he remained in court till the decision of the appeal. No further objection was made. On motion for a *certiorari*, F. S. stated on affidavit, that although he did speak to the chairman, and refer to documents during the trial, he did not vote or give any opinion on the question before the court, or influence the decision of the other magistrates; and that if the chairman and he had not believed that his presence on the bench, after his statement that he would not interfere, had been acquiesced in, he would have retired from the court during the trial. Held, that his presence, under those circumstances, rendered the proceedings invalid: *Reg. v. Suffolk JJ.*, 18 Q. B. 416.

Where upon the hearing of an appeal against a poor rate the deputy recorder at the borough sessions made an order for the amount of the taxed costs, he being at the time a ratepayer within another parish in the same union, it was held that the order for costs, being a judicial act, was void, on the ground that the deputy recorder was interested in the matter of the appeal: *Reg. v. Cambridge*, 4 Jur. (N. S.) 334; 27 L. J. M. C. 160; 21 J. P., n, 85, 324, 723, 803.

17 GEO. II. CHAP. 3.

AN ACT to oblige Overseers of the Poor to give Public Notice of Rates made for the Relief of the Poor, and to produce the same.

WHEREAS great inconveniences do often arise in cities, towns corporate, parishes, townships, and places, by reason of the unlimited power of the churchwardens and overseers of the poor, who frequently, on frivolous pretences, and for private ends, make unjust and illegal rates in a secret and clandestine manner, contrary to the true intent and meaning of a statute made in the forty-third year of the reign of Queen Elizabeth, intituled "An Act for the Relief of the Poor:" For remedy whereof, and preventing the like abuses for the future, be it enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the first day of May, one thousand seven hundred and forty-four, the churchwardens and overseers, or other persons authorized to take care of the poor in every parish, township, or place, shall give or cause to be given, public notice in the church (a) of every rate for the relief of the poor, allowed by the justices of peace, the next Sunday after the same shall have been so allowed; and that no rate shall be esteemed or reputed valid and sufficient so as to collect and raise the same, unless such notice shall have been given.

Preamble,
reciting the
Act 43 Eliz.
[c. 2.]

Poor rates to
be published in
the church.

II. The churchwardens and overseers of the poor, or other persons authorized as aforesaid, in every parish, township, or place, shall permit all and every the inhabitants of the said parish, township, or place to inspect every such rate at all seasonable times, paying one shilling for the same, and shall,

The rates to
be inspected
by any inha-
bitant, and
copies taken.

(a) See 1 Vict. c. 45, s. 2.

PUBLICATION OF POOR RATE.

The publication of a poor rate must be made on the Sunday next after the date of allowance by the justices. If this be not done the publication at any future time will not cure the defect. The proper course in such case is to take the rate again to the justices and get it allowed, and then to publish it in due time: *Rex v. Newcombe*, 4 T. R. 368. *Decisions on sect. 1.*

A notice that a rate of so much in the pound would be collected forthwith, was held a good publication of the rate, although it was not stated that it had been allowed by the justices: *Edwards v. Bennett*, 7 B. & C. 586; 6 Bing. 230.

Publication by affixing a notice upon the church-door previously to the evening service is sufficient: *Burnley v. Methley*, 1 E. & E. 789; 28 L. J. M. C. 152.

upon demand, forthwith give copies of the same or any part thereof, to any inhabitant of the said parish, township, or place, paying at the rate of sixpence for every twenty-four names (a).

Penalty on
not permitting
any inhabitant
to inspect, &c.

III. If any churchwarden or overseer of the poor, or other person authorized as aforesaid, shall not permit any inhabitant or parishioner to inspect the said rates, or shall refuse or neglect to give copies thereof as aforesaid, such churchwarden or overseer, or other person authorized as aforesaid, for every such offence shall forfeit and pay to the party aggrieved the sum of twenty pounds, to be sued for, and recovered by action of debt, bill, plaint, or information in any of His Majesty's courts of record, wherein no essoin, protection, or wager of law, or more than one imparlance shall be allowed.

(a) See 17 Geo 2, c. 38, s. 1; 6 & 7 Will. 4, c. 96, s. 5; 6 Vict. c. 18, s. 16.

INSPECTION OF POOR RATE—LIABILITY TO PENALTY.

Decisions on
sect. 2.

A rated inhabitant cannot sue an overseer for the penalty under 17 Geo. 2, c. 3, s. 2, for refusing an inspection of the rate books, unless he shows that he has been injured by the refusal: *Spenceley v. Robinson*, 5 D. & R. 572; 3 B. & C. 658.

An overseer by refusing to show a rate, and referring the person to the select vestry as a place where he would be allowed to inspect it, incurred the penalty imposed by 17 Geo. 2, c. 3, s. 2: *Bennett v. Edwards*, 7 B. & C. 586.

An assistant overseer appointed under 59 Geo. 3, c. 12, s. 7, and having, by virtue of his office, the poor rate book in his custody, is liable to a penalty for refusing to produce it to an inhabitant when lawfully demanded, according to 17 Geo. 2, c. 3; and if he have it in his custody as assistant overseer, it may be presumed that it is his duty to produce it when lawfully demanded: *Edwards v. Bennett*, 6 Bing. 230; 7 B. & C. 586; S. P. *Bennett v. Edwards*, 8 B. & C. 702.

Where a demand to inspect a rate was made on an overseer on his own premises, not far from his house, and he refused to allow the inspection, it was held that the demand was reasonable within the statute: *Parker v. Edwards*, 7 B. & C. 594.

INSPECTION OF POOR RATE—MANDAMUS.

A *mandamus* does not lie to inspect a poor rate under 17 Geo. 2, c. 3, s. 2: *Rex v. St. Marylebone*, 5 A. & E. 268; 6 N. & M. 600.

INSPECTION OF POOR RATE—DEMAND.

Decisions on
sect. 3.

The demand must be made at a reasonable time and place; and where the demand was made at a parishioner's house, at 8 o'clock in the evening, and not at the house of the overseer, no penalty was incurred by refusing the inspection: *Spenceley v. Robinson*, 5 D. & R. 572; 3 B. & C. 658.

It is a question for the jury, whether an overseer upon whom a demand has been made for a copy of the poor rate, under 17 Geo. 2, c. 3, has complied with the demand within a reasonable time: *Tennant v. Bell*, 9 Q. B. 684; 16 L. J. M. C. 31; 10 J. P. 756.

17 GEO. II. CHAP. 37.

AN ACT to prevent Disputes touching the Parishes or Places where improved Wastes and drained and improved Marsh Lands shall be charged to Parochial Rates (*b*).

WHEREAS in divers counties great quantities of waste and barren lands, and lands which were formerly fen or marsh ground, or covered with water, have been of late years improved or drained, and are now of very considerable annual value, and the inhabitants therein, and occupiers thereof, ought to bear and pay a proportionate part of the rates made for the relief of the poor, and to be subject to such charges, and in like manner as other inhabitants and occupiers of lands, houses, tythes, impropriate, propriations of tythes, coal mines, and saleable underwoods, are, by an Act made in the forty-third year of the reign of Queen Elizabeth, intituled, “An Act for the Relief of the Poor,” and likewise to bear and pay a proportionable part of all other parochial rates; but great difficulties frequently arise in determining to what parish or place such lands belong, or ought to be rated: Be it therefore enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the twenty-fourth day of June, one thousand seven hundred and forty-four, where there shall be any dispute

Preamble.
[43 Eliz. c. 2.]
Drained lands to pay parochial taxes.

(*b*) See also 43 Eliz. c. 2, s. 1; c. 96; 3 & 4 Vict. c. 89; 4 & 5 Vict. 3 & 4 Will. 4, c. 30; 6 & 7 Will. 4, c. 48; 5 Vict. c. 7.

INSPECTION OF POOR RATE—PENALTY FOR REFUSING.

The clerk to a board of guardians under a local Act was held not liable to the penalties imposed by 17 Geo. 2, c. 3, s. 3: *Whitchurch v. Chapman*, 17 Geo. II. 3 B. & Ad. 691. Decisions on 17 Geo. II. c. 3, s. 3.

In a declaration against an overseer for the penalty, under 17 Geo. 2, c. 3, for refusing inspection of a poor rate, it is sufficient for the plaintiff to describe himself as an inhabitant of the parish, without stating that he is a rated inhabitant: *Batchelor v. Hodges*, 6 N. & M. 75; 4 A. & E. 592; 5 L. J. M. C. 52.

The words “churchwarden or overseer” in 17 Geo. 2, c. 3, s. 3, are used in contradistinction to the word “inhabitant,” and therefore an overseer cannot bring an action on the statute against a co-overseer for refusing him a copy of the rate; nor is the co-overseer made liable by having promised to give a copy of the rate: *Wethered v. Calcutt*, 11 L. J. M. C. 123.

The penalty imposed by 17 Geo. 2, c. 3, s. 3, is claimable in the case of a poor rate made under the regulations of 6 & 7 Will. 4, c. 96, the latter statute not repealing the former: *Tennant v. Cranston*, 8 Q. B. 707; S.C. *Tennant v. Creston*, 15 L. J. M. C. 105; 10 J. P. 678.

or uncertainty in what parish or place such lands heretofore improved or drained, or hereafter to be improved or drained, lie and ought to be rated; all and every the occupier or occupiers of such lands or houses built thereon, tenements, tythes arising therefrom, mines therein, and saleable underwoods therein growing, or hereafter to grow, shall be rated and assessed to the relief of the poor, and to all other parochial rates within such parish and place which lies nearest to such lands in like manner and form, and subject to the same directions and regulations as all other lands within such parish and place are by law liable to be rated and assessed thereunto; and if on application to the officers of such parish or place to have such improved or drained lands rated and assessed as aforesaid, any dispute or difference shall arise touching what parish or place such lands ought to be rated and assessed in, it shall and may be lawful to and for the justices of the peace for the county, riding, liberty, or division, where such lands lie, at their next general quarter sessions to be held for such county, riding, liberty, or division, after such application made as aforesaid, and after notice given to the officers of the several parishes and places abutting upon and adjoining to such lands, and to all other persons claiming and interested therein, to hear and determine the same on the appeal of any person interested, and at such sessions to cause such lands or hereditaments as aforesaid to be allotted to, and fairly and equally assessed in such parish or place as they shall see just and meet; and such determination and allotment shall at all times thereafter be final and conclusive to and upon the said several parishes and places, and all other persons whatsoever as to the parish or place in which such lands and hereditaments shall be rated and assessed to the poor, and all other parochial rates as aforesaid; and the said lands and hereditaments shall at all times after such determination and allotment, be rated and assessed to the relief of the poor, and to all other parochial rates within such parish and parishes, place and places only, to which they shall respectively have been so allotted as aforesaid, any law, custom, or usage to the contrary in any wise notwithstanding.

Justices in general quarter sessions to hear and determine disputes.

Nothing herein or hereby to affect the boundaries of any parish other than for the purpose of rating.

II. Nothing in this Act contained, nor any allotment to be made by the justices of the peace, at their general quarter sessions, in pursuance and by virtue thereof, shall extend to or be deemed or construed to extend to or in any wise affect or determine the boundaries of any parish or parishes, place or places, to any intent or purpose other than for the purpose of rating and assessing such lands, tenements, and hereditaments to the relief of the poor, and to all other parochial rates within such parish or place to which they shall be so allotted as aforesaid, anything herein contained to the contrary thereof in any wise notwithstanding.

III. Nothing in this Act shall extend, or be construed to extend to invalidate, make void, or in any wise alter a clause in an Act of parliament made in the sixteenth and seventeenth year of the reign of King Charles the Second, intituled, “An Act for Draining of the Fen called Deeping Fen, and other Fens therein mentioned,” whereby it is enacted, that the trustees therein named, their heirs and assigns, or the survivor of them, their or any of their tenants, farmers, or ground holders of any part of the third part of the said fen, or of the five thousand acres therein mentioned, should not at any time hereafter use or claim any common of pasture or other commonage of pasturing in any part of the remainder of the said fens nor any of them, nor in the north fen of Pinchbeck and Spalding, nor any part thereof, by virtue or pretence of his or their residence there; but all and every the inhabitants that might thereafter be upon any part of the said third part, or upon any part of the said five thousand acres, and were not able to maintain themselves, should be maintained and kept by the said trustees, their heirs and assigns, and the survivor of them, and never become chargeable in any kind to all or any the respective parishes wherein such inhabitant or inhabitants should reside or dwell, any statute or law to the contrary thereof in any wise notwithstanding (*a*).

Recital of the
Act 16 & 17
Car. II. [c. 11.]

The poor to be
maintained by
the trustees.

(*a*) See 20 Vict. c. 19, s. 1.

17 GEO. II. CHAP. 38.

AN ACT for remedying some Defects in the Act made in the forty-third Year of the Reign of Queen Elizabeth, intituled, “An Act for the Relief of the Poor” (*b*).

WHEREAS by reason of some defects in an Act of Parliament made in the three-and-fortieth year of the reign of the late Queen Elizabeth (*b*), intituled, “An Act for the Relief of the Poor,” the money raised for that purpose is liable to be misapplied, and there is often great difficulty and delay in raising of the same: For remedy whereof, may it please your most excellent Majesty that it may be enacted, and be it enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the twenty-fourth day of June, one thousand seven hundred and forty-four, the churchwardens and overseers of the poor shall yearly, and every year (*c*) within fourteen days after other overseers shall be nominated and appointed to succeed them, deliver in to such succeeding overseers (*d*) a just,

Preamble, re-
citing the Act
43 Eliz. [c. 2.]

At what time
parish officers
shall make up
their accounts.

(*b*) See 43 Eliz. c. 2, s. 1.

(*d*) See 50 Geo. 3, c. 49.

(*c*) See 4 & 5 Will. 4, c. 76, s. 47;
and 7 & 8 Vict. c. 101, s. 38.

true and perfect account in writing, fairly entered in a book or books to be kept for that purpose, and signed by the said churchwardens and overseers hereby directed to account as aforesaid, under their hands, of all sums of money by them received, or rated and assessed, and not received, and also of all goods, chattels, stock, and materials that shall be in their hands, or in the hands of any of the poor, in order to be wrought, and of all monies paid by such churchwardens and overseers so accounting (a), and of all other things concerning their said office; and shall also pay and deliver over all sums of money, goods, chattels, and other things, as shall be in their hands, unto such succeeding overseers of the poor; which said account shall be verified by oath (b), or by the affirmation of persons called Quakers, before one or more of His Majesty's justices of the peace, which said oath or affirmation such justice or justices is and are hereby authorized and required to administer, and to sign and attest the caption of the same, at the foot of the said account, without fee or reward (c); and the said book or books shall be carefully preserved by the churchwardens and overseers, or one of them, in some publick or other place, in every parish, township, or place (d); and they shall and are hereby required to permit any person there assessed, or liable to be assessed, to inspect the same at all reasonable times, paying sixpence for such inspection, and shall, upon demand, forthwith give copies of the same, or any part thereof, to such person, paying at the rate of sixpence for every three hundred words, and so in proportion for any greater or less number (e).

Books may
be inspected,
paying 6d.,

and copies
taken, paying
6d. for 300
words.

- (a) See 4 & 5 Will. 4, c. 76, s. 47; (d) See 7 & 8 Vict. c. 101, s. 33;
and 7 & 8 Vict. c. 101, s. 38. and 12 & 13 Vict. c. 65, s. 3.
(b) See 43 Eliz. c. 2, s. 1. (e) See 17 Geo. 2, c. 3; 50 Geo. 3,
(c) See 7 & 8 Vict. c. 101, s. 37. c. 49, s. 1; 6 & 7 Will. 4, c. 96, s. 5.

ACCOUNTS OF PARISH OFFICERS.

*Decisions on
sect. 1.*

A *mandamus* to swear an overseer to his accounts, according to 17 Geo. 2, c. 38, was of course: *Rex v. Middlesex JJ.*, 1 Wils. 125.

But when the accounts were not allowed until the last day, when an effectual notice of appeal to the then next sessions could be given, and it did not appear when the person objecting had notice of the allowance, it was held that a notice of appeal to the next subsequent sessions, for which an effectual notice of appeal could be given, was good: *Rex v. Dorsetshire JJ.*, 15 East, 200.

The appeal against the allowance of overseers' accounts, under 17 Geo. 2, c. 38, was to the next sessions: *Rex v. Berkshire JJ.*, Bott.

Where one applies for a *mandamus* to compel the churchwardens and overseers to allow him to inspect their accounts according to the direction in 17 Geo. 2, c. 38, he must state some special reason for which he wishes to see the accounts. It is no answer to the application that the statute imposes a penalty upon them if they improperly refuse the inspection: *Rex v. Clear*, 4 B. & C. 899.

Where an overseer is rendered incompetent to serve in consequence of a conviction under 4 & 5 Will. 4, c. 76, s. 97, and an application is made for a *mandamus* to compel him to deliver up books, &c., belonging to the

II. In case such churchwardens and overseers of the poor, or any of them, shall refuse or neglect to make and yield up such account, verified as aforesaid, within the time hereinbefore limited or appointed, or shall refuse or neglect to pay and deliver over such sum or sums of money, goods, chattels, and other things in their hands, as by this Act is directed, in either of the said cases it shall and may be lawful to and for any two or more justices of the peace to commit him or them to the common gaol, until he or they shall have given such account, or shall have paid and yielded up such monies, goods, chattels, and other things in their hands as aforesaid (f).

Penalty on parish officers not accounting as this Act directs.

III. If any such overseer shall die or remove from the place for which he was appointed, or become insolvent, before the expiration of his office, on oath thereof made, it shall be

On an overseer's dying, &c. two justices to choose another.

(f) See 50 Geo. 3, c. 49, s. 1; 4 & 5 Will. 4, c. 76, s. 47; and 7 & 8 Vict. c. 101, s. 33.

ACCOUNTS OF PARISH OFFICERS—continued.

parish, the conviction must be annexed to the affidavits in support of the rule: *Rex v. Simms*, 4 Dowl. Rep. 294; 1 Har. & W. 514.

Decisions on sect. 1.

There is no general right in parishioners to inspect the churchwardens' books; and the court refused a *mandamus* to the churchwardens to allow an inspection where a special ground was not stated: *Reg. v. Daventry*, 5 Jur. (N. S.) 940: *Ex parte Briggs*, 1 E. & E. 881.

COMMITMENT FOR NOT ACCOUNTING, &c.

The commitment of overseers for not accounting must state the person to be overseer: *Rex v. Peake*, 1 Keble, 574.

Decisions on sect. 2.

And must conclude there to remain until they shall account: *case of Mayor and Churchwardens of Northampton*, Carth. 152.

The commitment was illegal if it stated that "an account" was tendered, though the account was not satisfactory: *Rex v. Corrocke*, Shower, 395.

An overseer was not to be committed for not giving up his accounts within the year, nor unless it was shown that he had not accounted before any other justices: *Rex v. Gibson*, Foley, 20.

Justices could not commit overseers for an objectionable account. They were to strike out what was objectionable and balance the account: *Walrond's case*, Bott.

It was resolved that justices might fine overseers as well as imprison them for refusing to account: *Rex v. Sedgewald*, Bott.

The 50 Geo. 3, c. 49, s. 1, is not a substitute for 17 Geo. 2, c. 38, s. 1, but is cumulative, and if the overseer refused to deliver in his account to the succeeding overseer within the 14 days, he might be convicted: *Lester's case*, 16 East, 374.

A conviction under 17 Geo. 2, c. 38, upon complaint of the overseers against a late overseer, for refusing to deliver up a parish book, was held void as to the adjudication respecting imprisonment: *Groome v. Forrester*, 5 M. & S. 314.

By 17 Geo. 2, c. 38, s. 2, it is discretionary in justices to commit an outgoing churchwarden or overseer, who neglected or refused to account: *Rex v. Norfolk JJ.*, 4 B. & Ad. 238.

Overseer removing, shall deliver his accounts to the churchwarden.

Executors of overseers to account in 40 days.

Persons aggrieved may appeal to quarter sessions.

Decision on sect. 3.

Decisions on sect. 4.

lawful for two justices of the peace to appoint another overseer in his stead, who shall continue in office until new overseers are appointed; and if any overseer shall remove as aforesaid, he shall, before such removal, deliver over to some churchwarden, or other overseer of the same place, his accounts, verified as aforesaid, with all rates, assessments, books, papers, sums of money, and other things concerning his office, under the like penalties as are inflicted by this Act on an overseer refusing to do the same after the expiration of his office; and if any overseer shall die as aforesaid, his executors or administrators shall, within forty days after his decease, deliver over all things concerning his office to some churchwarden or other overseer of the same place, and shall pay, out of the assets left by such overseer, all sums of money remaining due, which he received by virtue of his said office, before any of his other debts are paid and satisfied.

IV. In case any person or persons shall find him, her, or themselves aggrieved by any rate or assessment made for the relief of the poor, or shall have any material objection to any person or persons being put on or left out of such rate or assessment, or to the sum charged on any person or persons therein, or shall have any material objection to such account

REFUSAL OF OVERSEER TO DELIVER UP PARISH BOOKS.

Where an overseer was convicted for refusing and neglecting to deliver over a certain book belonging to the parish, and adjudged that he should be committed "until he should have yielded up all and every the books concerning his said office of overseer, belonging to the parish," the conviction was held void, as to the adjudication respecting the imprisonment, the same extending beyond what was previously required of the person convicted, and a warrant of commitment founded on the conviction was also held void *in toto*, for which trespass would lie against the justices although the conviction had not been quashed: *Groome v. Forrester*, 5 M. & S. 314.

APPEAL AGAINST POOR RATE.

Certiorari will not lie to remove a poor rate, the remedy being by appeal: *Rex v. Uttoxeter*, Str. 932.

On appeal from a poor rate, the sessions ordered the churchwardens to produce the books at an adjourned day before which *certiorari* was brought to remove that order, and held to lie though the appeal was depending; else the order must be obeyed before the validity of it could be determined: *case of the Borough of Warwick*, 2 Str. 991.

Where a person is overcharged in a poor rate, the sessions may under 17 Geo. 2, c. 18, relieve him on appeal, by lessening the sum assessed on him. (But see 41 Geo. 3, c. 23, s. 1): *Rex v. Cheshunt*, 2 T. R. 623

If one appeal against a rate on the ground that he has no rateable property in the parish, the respondents must first establish their case: *Rex v. Newbury*, 4 T. R. 475; Nol. 25.

Where the appellant disputes before the sessions the *quantum* of the rate, as well as the rateability of the property for which he was assessed, it is not enough for the overseers to show that he was in the receipt of the rents of the property, assuming it to be rateable, of the probable amount of which as rated they gave no evidence: *Rex v. Topham*, 12 East, 546.

as aforesaid, or any part thereof (a), or shall find him, her, or themselves aggrieved by any neglect, act, or thing done or omitted by the churchwardens and overseers of the poor, or by any of His Majesty's justices of the peace, it shall and may be lawful for such person or persons, in any of the cases aforesaid, giving reasonable notice to the churchwardens or overseers of the poor of the parish, township, or place (b), to appeal to the next general or quarter sessions of the peace for the county, riding, division, corporation, or franchise (c), where such parish, township, or place lies (d); and the justices of the peace there assembled are hereby authorized and required to receive such appeal, and to hear and finally determine the same; but if it shall appear to the said justices that reasonable notice was not given, then they shall adjourn the said appeal to the next quarter sessions, and then and there finally hear and determine the same; and the said justices may award and order to the party for whom such appeal shall be determined reasonable costs, in the same manner that they are empowered to do in case of appeals concerning the settlement of poor persons, by an Act made in the eighth and ninth years of King William the Third, intituled "An Act for supplying some Defects in the Laws for the Relief of the Poor of this Kingdom."

(a) See 41 Geo. 3, c. 23, ss. 4, 5; (d) See 6 & 7 Will. 4, c. 96, s. 6; 6 & 7 Will. 4, c. 96, s. 6; 12 & 13 12 & 13 Vict. c. 45, s. 1; 13 & 14 Vict. c. 65, s. 3. Vict. c. 101, s. 7; and 27 & 28 Vict.

(b) See 41 Geo. 3, c. 23, ss. 4, 5, 6. c. 39, s. 1.

(c) See 43 Eliz. c. 2, s. 8; 5 & 6 Will. 4, c. 76, s. 105.

APPEAL AGAINST POOR RATE—continued.

An appeal against a poor rate on the ground of over-rating, the practice at the sessions requiring the appellant to begin by proving his case, which he refused to do, the appeal was dismissed; and the court refused a *mandamus* to hear the appeal on this objection: *Rex v. Suffolk JJ.*, 6 M. & S. 57. *Decisions on sect. 4.*

The sessions have no power to quash a poor rate for a defect not pointed out in the notice of appeal, though it be apparent on the face of the rate: *Rex v. Bromyard*, 8 B. & C. 240.

Where a person had no stock in trade, and was rated as an inhabitant, his remedy was by appeal to the quarter sessions. Replevin did not lie for a distress in such a case: *Marshall v. Pitman*, 9 Bing. 595.

Where a person is rated to the poor rate in respect of property not in his occupation he is not bound to appeal, but may replevy any distress taken for it: *Bristol v. Wait*, 3 Nev. & M. 359; 1 A. & E. 264.

A parishioner has no right of appeal against a poor rate on the grounds that he is not rated, no particular grievance being shown, and it appearing that no rate is laid on similar property in the parish: *Rex v. George*, 6 A. & E. 305; 6 L. J. M. C. 34.

Although after allowance a rate cannot be abandoned so as to destroy its existence, yet the parish officers may so far abandon it as not to incur expense at sessions in support of it: *Reg. v. Fouch*, 11 L. J. M. C. 1; 1 G. & D. 585.

APPEAL AGAINST POOR RATE—*continued.*

Decisions on
sect. 4.

A rule of sessions practice, though unnecessary, if not unreasonable, will not be a ground for the interference of the court: *Reg. v. Montgomeryshire JJ.*, 14 L. J. M. C. 142.

In an appeal against a poor rate on the ground that the appellant is over-rated and others are under-rated, the appellant cannot abandon his ground of appeal against the rating of those persons, and go on with the remaining grounds of appeal: *Reg. v. Cambridgeshire JJ.*, 19 L. J. M. C. 131; 14 J. P. 141; 2 A. & E. 370.

On a *mandamus* commanding justices to issue a warrant of distress for poor rate against a rated inhabitant, the court, in the exercise of their discretion, refused to allow the return to be made on his behalf, and framed by him under 1 Will. 4, c. 21, s. 4, the justices opposing, and it appearing that the objections to the rate relied upon were technical or frivolous, and such as, if valid, might have been made on appeal, and that the person rated was actuated by a wish to harass the parish, and he not deposing to his belief in the validity of the proposed objections: *Reg. v. Cheek*, 9 Q. B. 942; 11 Jur. 86.

The sessions have no power to make a rule of practice with regard to appeals, requiring more than the general law requires as to notices: *Reg. v. Surrey JJ.*, 18 L. J. M. C. 175.

The previous sanction of a vestry is not necessary to authorize the overseers in proceeding with an appeal against the poor rate; and if they do not act *malâ fide*, or improvidently, they will be justified in paying the costs out of the poor rates: *Reg. v. Street*, 22 L. J. M. C. 29; 18 Q. B. 682; 16 Jur. 1085; 16 J. P. 359.

The 17 Geo. 2, c. 38, s. 4, as to ordinary costs, is not affected by 12 & 13 Vict. c. 45, s. 5, and 11 & 12 Vict. c. 43, s. 27: *Reg. v. Huntley*, 23 L. J. M. C. 106; 3 E. & B. 172; 18 J. P. 520.

Where a person rated has appealed against a rate on the ground that other persons are omitted or under-rated, and has served the notice of appeal on the parish officers, but not on the persons objected to as required by 41 Geo. 3, c. 23, s. 6, the next sessions are bound to enter and respite the appeal under 17 Geo. 2, c. 38, s. 4: *Reg. v. Eyre*, 6 E. & B. 992; 26 L. J. M. C. 14; 20 J. P. 740; 2 Jur. (N. S.) 1207; 29 L. T. 91, in the court below, 26 L. J. Q. B. 232; 3 Jur. (N. S.) 910; 26 L. T. 100.

The appeal in the above case having been called on at a subsequent sessions (after being respited), when it appeared that the appellant had not served the scheduled persons with a notice, but had served a fresh notice on the officers, addressed to them only, containing substantially the same grounds of appeal as the former notice, but omitting the ground relating to the scheduled persons. Held, that it was not competent to the appellant to do this, and that the sessions were right in dismissing the appeal: *Reg. v. Eyre*, 7 E. & B. 609; 26 L. J. M. C. 125; 21 J. P. 293; 3 Jur. (N. S.) 912; 22 J. P. 37.

A *mandamus* went to the justices to enter and respite an appeal against a poor rate under 17 Geo. 2, c. 38, s. 4, and 41 Geo. 3, c. 23, where notice of appeal had been served upon the collector, and not upon the overseers: *Shrewsbury and Hereford Railway Company v. Leominster*, 21 J. P. 149.

The defendant, an attorney and parish clerk of E., employed the plaintiff, a surveyor, to make certain surveys and valuations, in order to qualify himself as a witness to support the valuations upon which certain assessments to the poor rate in respect of premises within the parish had been made, and against which notice of appeal had been given. The plaintiff accordingly made the surveys and valuations, and gave evidence in support of the rates on the hearing of the appeals. Held, that the parish officers,

V. Provided always, that in all corporations or franchises, who have not four justices of the peace, it shall and may be lawful for any person or persons, in any of the cases aforesaid where an appeal is given by this Act, to appeal, if he or they shall think fit, to the next general or quarter sessions of the peace for the county, riding, or division wherein such corporation or franchise is situate (a). Proviso for corporations, &c.

(a) See 43 Eliz. c. 2, s. 5; 1 Geo. 4, c. 36; and 5 & 6 Will. 4, c. 67, s. 111.

APPEAL AGAINST POOR RATE—continued.

and not the defendant, were liable to the plaintiff for his expenses: *Lee v. Everest*, 2 H. & N. 285; 22 J. P. 55. Decisions on sect. 4.

Where property has been rated to the poor rate, and it has been decided that such property is exempted by reason of the occupation not being beneficial, the person so rated cannot maintain an action of replevin for a levy made to enforce the rate, but he must seek his remedy by an appeal to the quarter sessions: *Mersey Docks Company v. Cameron*, 4 L. T. (N. s.) 53; but see *ante*, page 61.

The justices cannot refuse their warrant for levying a poor rate where there has been no appeal; and the parish officers will be entitled to a rule commanding the justices to levy the rate: *Reg. v. Kingston-upon-Thames JJ.*, 27 L. J. M. C. 199; 1 E. B. & E. 256.

Parish officers may drop an appeal which was defended by their predecessors, if they consider it advisable to do so; but the appellant would be entitled to a judgment in his favour at quarter sessions, which, if it contain an award of costs against the parish, may be enforceable against the present overseers: *Ex parte Fletton*, 24 J. P., n, 291, 709; 2 L. T. (N. s.) 174.

The question of occupation or non-occupation may be raised before the justices on application for a distress warrant; but if the person who is the visible occupier objects that his occupation is not beneficial, that is a matter of appeal to the quarter sessions; and the justices in petty sessions cannot entertain it, but must issue their distress warrant: *Reg. v. Warwickshire JJ.*, 2 L. T. (N. s.) 233; 24 J. P., n, 324, 727; S. C. *Reg. v. Bradshaw*, 29 L. J. M. C. 176; 2 E. & E. 836.

If an appeal be referred to arbitration, with power to the arbitrator to state a case for a court of law, and the arbitrator gives his award, and afterwards states in writing the principle on which he proceeded, the appellant cannot apply to send back the award to the arbitrator, because there is power in the agreement to require a case to be stated, which was neglected to be exercised: *London Dock Company v. St. Paul, Shadwell*, 26 J. P. 773; 27 J. P. 324.

Under two local Acts by which the rates of a parish were regulated, an appeal was given against any rate at the next quarter sessions, and the rate was to be enforced by summons before two justices, who were to order the payment, and (if necessary) issue a warrant of distress if the person summoned "did not prove to them that he was not chargeable with or liable to pay such rate." This, it was held, only gave the justices power similar to that in enforcing a poor rate, and that they had no jurisdiction to inquire into the validity of a rate, good on the face of it, and that they had no jurisdiction to "determine" anything "in a summary way," within the meaning of 20 & 21 Vict. c. 43, so as to give them power to state a case for the opinion of a superior court: *Ex parte May*, 31 L. J. M. C. 161; 2 B. & S. 426.

How far justices shall give relief on appeals.

VI. And whereas it hath been held, that upon appeals from rates and assessments, the justices of the peace may not only quash the old rates, but make new rates and assessments, from which no appeal can be had : Be it enacted by the authority aforesaid, that upon all appeals from rates and assessments, the justices of the peace (where they shall see just cause to give relief) shall and are hereby required to amend the same, in such manner only as shall be necessary for giving such relief, without altering such rates or assessments with respect to other persons mentioned in the same ; but if upon an appeal from the whole rate, it shall be found necessary to quash or set aside the same, then, and in every such case the said justices shall and are hereby required to order and direct the churchwardens and overseers of the poor to make a new equal rate or assessment, and they are hereby required to make the same accordingly (a).

Clause relating to warrants of distress.

VII. And for the more effectual levying money assessed for the relief of the poor, be it enacted, by the authority aforesaid, that the goods of any person assessed, and refusing to pay, may be levied by warrant of distress, not only in the place for which such assessment was made, but in any other place within the same county or precinct (b) ; and if sufficient distress cannot be found within the said county or precinct, on oath made thereof before some justice of any other county or precinct (which oath shall be certified under the hand of such justice on the said warrant) such goods may be levied in such other county or precinct by virtue of such warrant and certificate ; and if any person shall find him or herself aggrieved by such distress as aforesaid, it shall and may be lawful for such person to appeal to the next general or quarter sessions of the peace for the county or precinct where such assessment was made, and the justices there are hereby required to hear and finally determine the same (c).

Appeal to quarter sessions.

(a) See 16 Geo. 2, c. 18 ; 41 Geo. 3, c. 23 ; 6 & 7 Will. 4, c. 96.

(b) See 54 Geo. 3, c. 170, s. 12.

(c) See 11 & 12 Vict. c. 44, s. 4.

APPEAL AGAINST POOR RATE—QUASHING RATE.

Decisions on sect. 6.

An order of sessions quashing a rate without assigning any reason is a good order : *Rex v. Cornwall JJ.*, 4 Burr. 2102.

If in the rate the name of a person has been left out who ought to have been rated, the sessions must quash the rate, they cannot amend it : *Rex v. Maddern*, 1 T. R. 625 ; *Rex v. Darlington*, 6 T. R. 468.

But this is not now law ; for where there is an appeal against a poor rate on the ground that some person is omitted who ought to be rated, the sessions cannot hear the appeal unless notice and the ground of it have been given to the person improperly omitted from the rate : *Rex v. Brookes*, 9 B. & C. 915 ; 4 M. & R. 719.

APPEAL AGAINST POOR RATE—QUASHING RATE—*continued*.

An order of quarter sessions made on an appeal against a poor rate, and directing the rate to be quashed, is not bad because it does not also order the overseers to make a new rate: *Reg. v. Hampshire JJ.*, 33 L. J. M. C. 104; 9 L. T. (N. S.) 730. *Decisions on sect. 6.*

DISTRESS FOR POOR RATES.

Under a local Act it was held that the goods of a lodger might be distrained for rates due from the landlord: *Peppercorn v. Hofman*, 9 M. & W. 618; 11 L. J. Exch. 207. *Decisions on sect. 7.*

A warrant of distress for poor rates which recited that the rate was made on the 25th November, that being in fact the date of its allowance, it having been made on the 24th September, and alleged the refusal to pay the rate to have been "duly proved" instead of proved on oath, was held to be good: *Ormerod v. Chadwick*, 16 L. J. M. C. 143; 11 J. P. 138.

Commissioners authorized to distrain for arrears of drainage rates, seized as such distress a bean-stack standing on the land of L., a person liable for the arrears, and sold it under the distress. When the purchaser attempted to remove the stack, he was prevented by the violence of L., who assaulted him, and afterwards converted the stack to his own use. The purchase money was not paid to the commissioners. Held, that as the commissioners were prevented realizing the rates out of the distress by the unlawful conduct of L. himself, they were justified in distraining a second time upon the goods of L. for the same rates: *Lee v. Cooke*, 3 H. & N. 203; 22 J. P. 177; 27 L. J. (N. S.) Exch. 337.

A. was indicted for the rescue of a distress from a collector of poor rates. The name of the defendant did not appear in the rate, and there was no name or description of the parties liable to the payment of the rate in the appropriate column, except the general words "tenants of common." The transcript of the rate book, to which the collector's warrant was annexed, was similarly defective. It was not disputed that A. was the occupier of the lands, and might have been rated as such. Held, that under the above warrant the collector had no power to distrain the defendant's goods, and that the indictment could not therefore be sustained: *Reg. v. Boyle*, 7 Cox C. C. 428.

An appellant against a distress warrant issued to enforce payment of poor rates, cannot under 17 Geo. 2, c. 38, s. 7, avail himself of any objection which he might have urged against the rate itself, on appeal to the sessions under section 4. Nor will the court grant a *mandamus* to justices to hear such appeal against the warrant, if the application discloses no grounds of appeal other than the grounds which might have been urged against the rate: *Reg. v. Kent JJ.*, 16 L. T. (N. S.) 673.

APPEAL AGAINST POOR RATE—TO WHAT SESSIONS.

An appeal against a poor rate must be made to the next sessions after the publication of the assessment, for it is by making the rate that the person is aggrieved: *Rex v. Micklefield, Bott*.

The appeal against a poor rate must be in all cases to the next sessions; for the 17 Geo. 2, c. 38, s. 7, has repealed 43 Eliz. c. 2, s. 4, which left the appeal to any sessions: *Rex v. Coode, Bott*.

An appeal against a poor rate must be lodged at the sessions next after the allowance of it; and if at a subsequent sessions it be dismissed for not having been lodged in time, and the order of sessions be removed by *certiorari*, the court will not go into any objection appearing on the face of the rate: *Rex v. Atkins*, 4 T. R. 12.

APPEAL AGAINST POOR RATE—TO WHAT SESSIONS—*continued.*

*Decisions on
sect. 7.*

An appeal to the borough sessions against a poor rate is good: *Rex v. Taunton*, Fost. 325.

An appeal against a poor rate in London or Middlesex must be made as in all other counties to the next practicable quarter sessions; though 17 Geo. 2, c. 38, s. 4, in terms gives the appeal to the next general or quarter sessions (see now 32 & 33 Vict. c. 67, as to the Metropolis): *Rex v. London JJ.*, 15 East, 632.

The 17 Geo. 2, c. 38, s. 4, does not make it imperative on the justices to hear and determine an appeal at the sessions next following the publication of the rate, but they may adjourn it to the next sessions: *Rex v. Wilts JJ.*, 8 B. & C. 380.

A poor rate having been made on the 9th, allowed on the 11th, published on the 14th, and the sessions commencing on the 15th April: held, that an appeal against the rate need not be entered until the following sessions: *Rex v. Hendon*, 2 D. & R. 249.

Notice of appeal against a poor rate was given, and the respondents attended at the sessions and prayed a respite, alleging that they had not had time to prepare for trial. This was opposed by the appellant, but it was granted, no notice of appeal having been proved or expressly admitted. An order to respite was made out embodying the grounds of appeal stated in a notice; and it was held that at the following sessions the appellant was entitled to be heard without proving any notice of appeal: *Rex v. Hertfordshire JJ.*, 4 B. & Ad. 561; 1 N. & M. 331.

The appeal against the overseers' accounts under 17 Geo. 2, c. 38, s. 4, was to the next practicable sessions after the account was published: *Reg. v. Watts*, 7 A. & E. 461.

A poor rate was published on the 14th October, and the next sessions took place on the 23rd. Nothing was done at these sessions by the appellant, but at the January sessions an appeal was entered and respited. Notice of appeal was given for the following Easter sessions, when the justices refused to hear the appeal; and the court made a rule absolute for a *mandamus* to compel them to hear it: *Reg. v. Suffolk JJ.*, 8 Dowl. 618.

Where there is a notice of appeal to the wrong sessions (the borough), the notice may be treated as a notice of appeal to the county sessions: *Reg. v. Salop JJ.*, 24 L. J. M. C. 14.

Where an appeal against a poor rate is brought on at the first sessions, and it appears that there has been a defective service of the notice of appeal, the sessions are bound to enter and respite the appeal to the next sessions: *Reg. v. Herefordshire JJ.*, 28 L. T. 286.

What is the next practicable sessions for appealing against a poor rate with reference to 27 & 28 Vict. c. 39, s. 1, see *Reg. v. Biggleswade*, 21 L. T. (N. S.) 494, *post*.

Liverpool Borough sessions were held on the 1st Sept. and 26th Oct. The assessment committee refused relief against an assessment of gas works on the 3rd August. The company did not appeal to the September sessions, but obtained leave to enter and respite their appeal at the October sessions. Held, that the September sessions were the next practicable sessions, and that a prohibition would lie against proceeding with the appeal: *Reg. v. Recorder of Liverpool*, 23 L. T. (N. S.) 813; 35 J. P. 186; *S. C. Liverpool United Gas Light Company v. Everton*, 40 L. J. M. C. 104.

VIII. And to prevent all vexatious actions against overseers of the poor, be it enacted by the authority aforesaid, that where any distress shall be made for any sum or sums of money justly due for the relief of the poor, the distress itself shall not be deemed to be unlawful, nor the party or parties making it be deemed a trespasser or trespassers, on account of any defect or want of form in the warrant for the appointment of such overseers, or in the rate or assessment, or in the warrant of distress thereupon; nor shall the party or parties distraining be deemed a trespasser or trespassers *ab initio*, on account of any irregularity, which shall be afterwards done by the party or parties distraining, but the party or parties aggrieved by such irregularity shall or may recover full satisfaction for the special damage he, she, or they shall have sustained thereby, and no more, in an action of trespass, or on the case, at the election of the plaintiff or plaintiffs.

Clause to prevent vexatious actions against overseers.

IX. Provided always, that where the plaintiff or plaintiffs shall recover in such action, he, she, or they shall be paid his, her, or their full costs of suit, and have all the like remedies for the same as in other cases of costs.

Plaintiffs recovering, to have full costs.

X. Provided nevertheless, that no plaintiff or plaintiffs shall recover in any action for any such irregularity as aforesaid, if tender of amends hath been made by the party or parties distraining, before such action brought.

Proviso in case of irregularity.

APPEAL AGAINST POOR RATE—COSTS.

One was indicted for not paying costs on the dismissal of his appeal against a poor rate; and the court held that an indictment might be brought: *Rex v. Byce, Bott*. Decisions on sect. 9.

If a person give notice of his intention to appeal to the quarter sessions against a poor rate, but do not enter his appeal, the sessions cannot award costs to the other side, under 17 Geo. 2, c. 38: *Rex v. Essex JJ.*, 8 T. R. 583.

Where an appeal against a poor rate was entered at the Midsummer sessions, and respite until the Michaelmas sessions, and then further respite at the instance of the appellant till the Epiphany sessions, four days previously to which the respondents gave notice that they would not oppose the appeal, and it was accordingly allowed without opposition: held, that the appellant was entitled to costs as upon an appeal which had been heard and determined within the meaning of 17 Geo. 2, c. 38, s. 4; *Rex v. Cavston*, 4 D. & R. 445.

An order dismissing an appeal against a poor rate, and giving costs, was held to be good, though no notice had been given that more than nominal costs would be asked for: *London and Brighton Railway Company v. London, Brighton, and South Coast Railway Company*, 17 L. J. M. C. 119.

An order of quarter sessions on dismissal of an appeal against a poor rate, that the appellant should pay costs "immediately upon service of this order or a true copy thereof," is valid; for the order is a judgment of the sessions, and therefore service of the original, or production of it on service of a copy cannot be required: *Reg. v. Mortlock*, 7 Q. B. 459; 9 J. P. 454.

Succeeding overseers to levy arrears, to reimburse the former.

XI. In case any person or persons shall refuse or neglect to pay to such overseers as aforesaid any sum or sums of money that he, she, or they shall be legally rated or assessed to, it shall and may be lawful to and for the succeeding overseers (*a*), and they are hereby required, to levy such arrears, and out of the money so levied to reimburse their predecessors all sums of money which they have expended for the use of the poor, and which are allowed to be due to them in their accounts as aforesaid (*b*).

* * * * *

Copies of rates to be entered in a book,

XIII. And be it further enacted by the authority aforesaid, that true and just copies of all rates and assessments hereafter to be made for the relief of the poor, be fairly wrote and entered in a book or books to be provided for that purpose by the churchwardens and overseers of the poor of every parish, township, or place, who shall take care that such copies be wrote and entered accordingly, within fourteen days after all appeals

(*a*) See 43 Eliz. c. 2, s. 2; and (*b*) See 41 Geo. 3, c. 23, s. 9; and 6 & 7 Will. 4, c. 96. (Sch.) 11 & 12 Vict. c. 91, ss. 1, 2.

APPEAL AGAINST POOR RATE—COSTS—*continued*.

Decisions on
sect. 9.

If the court on hearing the appeal direct costs to be given, and adjourn the court, it is sufficient to have the costs taxed by the clerk of the peace between the day of hearing and the adjournment day; and on the adjournment day to draw up the order, inserting a direction to pay the amount of costs ascertained on the taxation: *Reg. v. Hampshire JJ.*, 33 L. J. M. C. 104; 9 L. T. (N. S.) 730.

LEVY OF ARREARS OF POOR RATE BY SUCCEEDING OVERSEERS.

Decisions on
sect. 11.

Arrears of poor rate can be levied under 43 Eliz. c. 2, s. 4, by overseers other than the immediate successors of those who made the rate; and 17 Geo. 2, c. 38, s. 11, has not the effect of confining this right to the immediate successors: *East Dean v. Everett*, 3 L. T. (N. S.) 700; 7 Jur. (N. S.) 124; 25 J. P. 565; 30 L. J. M. C. 117.

APPLICATION OF POOR RATES.

A poor rate could not be made to repay money borrowed to repair and rebuild a workhouse: *Rex v. Wavel*, 1 Doug. 116.

An overseer of the poor is not bound to lay out money until he has it; and if he do and does not repay himself before his term of office expires, his successors cannot make a rate to reimburse him: *Rex v. Rotherhithe*, 8 Mod. 338.

The accounts of an overseer should be settled at the end of the year; and if a person be appointed overseer for successive years, and do not make any rate in the first three to reimburse himself what he expends in those years, he cannot in the fourth year make a rate for that purpose: *Rex v. Goodcheap*, 6 T. R. 159.

Under 59 Geo. 3, c. 134, s. 14, churchwardens could not raise a loan on the credit of the church rates, to pay a debt for repairs incurred in a past year; the loan ought to be raised when the repairs are done, and the laying of rates for repayment should commence immediately, and be continued so as to pay off the debt by ten annual instalments: *Rex v. Dursley*, 5 A. & E. 15.

from such rates are determined, and shall attest the same by putting their names thereto; and all and every such book or books shall be carefully preserved by the churchwardens and overseers of the poor for the time being, or one of them, in some public or other place, in every such parish, township, or place, whereto all persons assessed or liable to be assessed may freely resort, and shall be delivered over from time to time to the new and succeeding churchwardens and overseers of the poor as soon as they enter into their said offices, to be preserved as aforesaid, and shall be produced by them at the general or quarter sessions, when any appeal is to be heard or determined (c).

to be kept for public perusal.

XIV. If any churchwarden, overseer of the poor, or other officer of any parish, township, or place, shall neglect or refuse to obey and perform the several orders and directions of this Act, or any of them, where no penalty is before provided by this Act, or shall act contrary thereto, every such churchwarden, overseer of the poor, or other officer so offending in the premises, shall for every such offence, on oath thereof made within two calendar months after the offence committed, before any two or more of His Majesty's justices of the peace, forfeit, for the use of the poor of such parish, township, or place, a sum not exceeding five pounds, nor less than twenty shillings, to be levied by distress and sale of the offender's goods, by warrant from such justices, which sum shall be paid to some churchwarden or overseer of the poor of such parish, township, or place, for the purpose aforesaid (d).

Penalty on parish officers not obeying this Act.

XV. Overseers of the poor, within every township or place where there are no churchwardens (e), shall from time to time do, perform, and execute all and every the acts, powers, and authorities concerning the relief of, and other matters and things relating to the poor, as churchwardens and overseers of the poor may do, perform, and execute by this Act, or any former statute concerning the poor, and shall lose, forfeit, and suffer all such pains and penalties for neglect, abuse, or non-

Power of overseers, where there are no churchwardens.

(c) See 58 Geo. 3, c. 69, s. 6; 6 & 7 Geo. 3, c. 55; 4 & 5 Will. 4, c. 76, Will. 4, c. 96, s. 5; 2 & 3 Vict. c. 84, s. 95.

s. 3; and 24 & 25 Vict. c. 125. (e) See 43 Eliz. c. 2, s. 1; and

(d) See 43 Eliz. c. 2, s. 1; 33 14 Car. 2, c. 12, s. 21.

RENT OF AN OFFICE BY OVERSEERS.

The Act does not give the overseers authority to hire a place to carry on their business; only to provide a place to deposit books and documents in: *Decision on sect. 13.* they do not want gas and fire for that purpose: *Per Blackburn, J., Ex parte Spotland*, 2 L. T. (N. S.) 214; 24 J. P. 323.

performance thereof, as churchwardens and overseers of the poor are liable to by virtue of this or any former statute concerning the poor (*a*).

(*a*) See 51 Geo. 3, c. 80; 54 Geo. 3, c. 107; and 1 & 2 Geo. 4, c. 32.

18 GEO. II. CHAP. 15.

AN ACT for making the Surgeons of London and the Barbers of London two separate and distinct Corporations (*b*).

* * * * *

Surgeons exempted from parish, ward, and leet offices and juries.

X. All and every person and persons, being freemen of the said company and corporation of surgeons established and incorporated by this Act, and who already have been or hereafter shall be examined and approved, pursuant to the rules and orders of the said company, and every of them, for so long time as he and they shall use and exercise the said art or science of surgery, and no longer, shall and may at all times hereafter, be freed and exempted from the several offices of constable, scavenger, overseer of the poor, and all other parish, ward, and leet offices, and of and from the being put into or serving upon any jury or inquest: and if at any time hereafter any such person or persons using and practising the said art or science of surgery, and being qualified as aforesaid, shall be chosen and elected into any of the said offices, or returned, required or appointed to serve on any jury, leet, or inquest, or be disquieted or disturbed by reason thereof; that then such person or persons producing a testimonial under the common seal of the said corporation of such his examination, approbation, and freedom, to the person or persons by whom he shall be so elected or appointed, or by or before whom he shall be summoned, returned, or required to serve or hold any of the said offices or duties, shall be absolutely discharged from the same; and such nomination, election, return and appointment, shall be utterly void, and of no effect; any order, custom, law or statute to the contrary in any wise notwithstanding.

* * * * *

(*b*) This Act is omitted from the revised edition of the statutes, probably because it is of a local or personal nature; as, however, s. 10, which is not repealed, is of general application, that section is here reproduced.

20 GEO. II. CHAP. 19.

AN ACT for the better adjusting and more easy recovery of the Wages of certain Servants, and for the better Regulation of such Servants, and of certain Apprentices (*c*).

* * * * *

III. It shall and may be lawful to and for any two or more Justices upon such justices, upon any complaint or application by any apprentice complaint of put out by the parish, or any other apprentice, upon whose certain ap- binding out no larger sum than five pounds (*d*) of lawful British prentices, to money was paid, touching or concerning any misusage, refusal summon the of necessary provision, cruelty or other ill treatment of or master, &c. towards such apprentice, by his or her master or mistress, to summon such master or mistress to appear before such justices, at a reasonable time to be named in such summons; and such justices shall and may examine into the matter of such complaint, and upon proof thereof made upon oath, to their satisfaction (whether the master or mistress be present or not, if service of the summons be also upon oath proved), the said justice may discharge such apprentice, by warrant or certificate under their hands and seals, for which warrant or certificate no fees shall be paid (*e*).

IV. It shall and may be lawful to and for such justices, upon Justices, upon application or complaint made upon oath by any master or complaint mistress against any such apprentice touching or concerning of masters any misdemeanor, miscarriage, or ill behaviour in such his or against ap- her service, (which oath such justices are hereby empowered to prentices, and administer,) to hear, examine, and determine the same, and to proof upon punish the offender by commitment to the house of correction, oath, to punish the offender by there to remain and be corrected and held to hard labour for commitment, a reasonable time not exceeding one calendar month, or otherwise by discharging such apprentice in manner and form &c. before mentioned (*f*).

V. Provided nevertheless, that if any person or persons shall Persons think himself, herself, or themselves aggrieved by such deter- aggrieved mination, order, or warrant of such justice or justices as afore- may appeal. said (save and except any order of commitment), he, she, or Exception.

(*c*) See 33 Geo. 3, c. 55; 4 Geo. 4, 4 Geo. 4, c. 29, s. 1; 5 Vict. c. 7; c. 29; 4 Geo. 4, c. 34; 4 & 5 Will. 4, 14 & 15 Vict. c. 11; and 32 & 33 c. 76, s. 61; and 7 & 8 Vict. c. 101, Vict. c. 71, s. 33.

ss. 12, 13.

(*f*) See 32 Geo. 3, c. 57, s. 13;

(*d*) See 4 Geo. 4, c. 29, s. 1.

and 4 Geo. 4, c. 29, s. 1.

(*e*) See 32 Geo. 3, c. 57, s. 11;

Costs not to
exceed 40s.

they may appeal to the next general or quarter sessions of the peace to be held for the county, riding, liberty, city, town corporate, or place where such determination or order shall be made; which said next general or quarter sessions is hereby empowered to hear and finally determine the same, and to give and award such costs to any of the respective persons, appellant or respondent, as the said sessions shall judge reasonable, not exceeding forty shillings, the same to be levied by distress and sale, in manner before mentioned (a).

Writ of *certiorari* not
issuable.

VI. Provided also, that no writ of *certiorari*, or other process shall issue or be issuable to remove any proceedings whatsoever had in pursuance of this Act into any of His Majesty's courts of record at Westminster.

* * * * *

(a) See 20 Geo. 2, c. 19, s. 1.

20 GEO. II. CHAP. 42.

AN ACT to enforce the Execution of an Act of this Session of Parliament for granting to His Majesty several Rates and Duties upon Houses, Windows, or Lights.

* * * * *

Wales and
Berwick-upon-
Tweed to be
deemed in-
cluded in all
cases where
the kingdom
of England is
mentioned.

III. And it is hereby further declared and enacted by the authority aforesaid, that in all cases where the kingdom of England, or that part of Great Britain called England, hath been or shall be mentioned in any Act of parliament, the same has been and shall from henceforth be deemed and taken to comprehend and include the dominion of Wales and town of Berwick-upon-Tweed.

* * * * *

24 GEO. II. CHAP. 40.

AN ACT for granting to His Majesty an additional Duty upon Spirituous Liquors and upon Licences for retailing the same (b). * * *

* * * * *

No licence to
be granted
for retailing

XIII. No licence shall be granted for the retailing of spirituous liquors within any gaol, prison, house of correction, work-

(b) This statute, so far as it is applicable to gaols, prisons, or houses of correction, was repealed by the 4 Geo. 4, c. 64, s. 1. It is still in force in regard to workhouses, or "houses for the entertainment of the parish poor."

house, or house of entertainment for any parish poor, and all licences granted or to be granted contrary to this provision, shall be void and of no effect from and after the said first day of July, one thousand seven hundred and fifty-one; and if any gaoler, keeper, or officer of any gaol, prison, or house of correction, or any governor, master, or officer of any workhouse or house for the entertainment of any parish poor, shall sell, use, lend, or give away, or knowingly permit or suffer any spirituous liquors or strong waters to be sold, used, lent, or given away, in any such gaols, prisons, or houses of correction, or brought into the same, other and except such spirituous liquors or strong waters as shall be prescribed or given by the prescription and direction of a regular physician, surgeon or apothecary, and to be applied in pursuance of such prescription from the shop of some regular apothecary; every such gaoler, keeper, governor, master or other officer, shall for every such offence forfeit and lose the sum of one hundred pounds; one moiety thereof to His Majesty, and the other moiety thereof, with full costs of suit, to such person or persons as will sue for the same in any of His Majesty's courts of record at Westminster, or in the court of Exchequer in Scotland, by action of debt, bill, plaint or information, wherein no essoin, privilege, protection, wager of law, or more than one imparlance shall be granted or allowed; and in case any such gaoler or other officer being convicted thereof as aforesaid, shall again offend in a like manner and be thereof a second time lawfully convicted, such second offence shall be deemed a forfeiture of his office.

spirituous liquors within gaols, houses of correction, workhouses, or houses of entertainment for parish poor. Keeper, &c. suffering spirituous liquors, to be used there, &c., except such as shall be medicinally prescribed,

to forfeit 100*l*;

and for a second offence, to forfeit his office.

XIV. From and after the said first day of July, one thousand seven hundred and fifty-one, it shall and may be lawful for His Majesty's justices of the peace, or any one of them, upon information upon oath, that any such spirituous liquors or strong waters are kept and disposed of in any such gaol, prison, house of correction, workhouse, or house of entertainment for parish poor, in Great Britain, to enter and search, or to authorize and empower any constable, headborough, or other peace officer of the parish where any such places are situate, by warrant under his hand and seal, to enter and search any such gaol, prison, house of correction, workhouse, or house of entertainment for parish poor; and in case any such spirituous liquors or strong waters shall be found therein (except such as are directed to be used medicinally as aforesaid), it shall and may be lawful for such constable, headborough, or overseer of the poor, to seize such spirituous liquors or strong waters, and to cause the same to be forthwith staved and destroyed.

Justices, upon information that spirituous liquors are kept, &c., in such houses, may enter and search, or empower any constable so to do,

and seize and stave the same.

XV. No person shall carry or bring, or attempt or endeavour to carry or bring any distilled spirituous liquors (except to be used in the way of medicine as hereinbefore mentioned), into any gaol, prison, house of correction, workhouse, or house of entertain-

Persons carrying, &c., spirituous liquors into such houses,

to be taken
before a
justice;

and on con-
viction, to be
committed, or
pay a sum not
exceeding 20l.
nor less than
10l.

Application
for the for-
feiture.

A fair copy
of the three
preceding
clauses to be
always kept
hung up in the
most public
place of such
gaol, &c.
under penalty
of 40s.

Justice may
enter and de-
mand a sight
thereof;

and if the same
be not fair and
legible, may
convict the
gaoler, &c.

ment for parish poor; and if any person or persons shall offend therein, it shall be lawful for the gaoler, keeper, master or chief officer of such gaol, prison, house of correction, workhouse, or house of entertainment for parish poor, or his or their servants, to apprehend such person or persons, and to carry him, her, or them before a justice of the peace of the county, division, city, town corporate, or liberty, where such gaol, prison, house of correction, workhouse, or house of entertainment for parish poor is situate (who is hereby empowered to hear and determine such offence in a summary way, and to administer an oath to the witnesses); and if by the oath of one credible witness or otherwise, he shall convict such person or persons of such offence, he shall forthwith commit such offender or offenders to prison or to the house of correction, there to be kept in custody for any time not exceeding three months, without bail or mainprize, unless such offenders respectively shall immediately pay down such sum or sums of money not exceeding twenty pounds, and not less than ten pounds, as the justice shall impose upon such offenders severally, as their fines; to be paid one moiety to the informer, and the other moiety to the use of the poor of such gaol, prison, house of correction, workhouse, or house of entertainment for the parish poor (a).

XVI. Every gaoler, keeper, master, and chief officer of every gaol, prison, house of correction, workhouse, and house of entertainment for any parish poor, shall on or before the first day of August, one thousand seven hundred and fifty-one, procure one or more copy or copies of the three preceding clauses to be printed or fairly written, and hung up in one of the most public places of his gaol, prison, house of correction, workhouse, or house of entertainment for parish poor, and renew the same from time to time, so that it may always kept fair and legible, on pain of forfeiting the sum of forty shillings for every wilful default, to be levied by warrant of any justice of the peace of the county, division, city, town corporate, or liberty where such gaol, prison, house of correction, workhouse, or house of entertainment for parish poor shall be situate, to be granted on conviction of such default, in a summary way before such justice by the oath of one or more credible witness or witnesses (which oath such justice is hereby empowered to administer); and it shall and may be lawful for every justice of peace to enter into any gaol, prison, house of correction, workhouse, or house of entertainment for parish poor, within the limits of his jurisdiction, and demand a sight of such copy so hung up as aforesaid; and if the same shall not be forthwith shown to him so hung up in some public place, fair and legible as aforesaid, such justice shall and may immediately convict such gaoler, keeper, master, or officer, of such default, and so from time to time, as often as he shall think fit; one moiety of the said penalty to be paid to the

informer, and the other moiety (or the whole if there be no Application of
informer) to the use of the poor of such gaol, prison, house of the penalty.
correction, workhouse, or house of entertainment for parish
poor.

* * * * *

XXXI. All persons sued or prosecuted for anything done in or Persons sued
relating to the execution of this present Act shall be entitled to for anything
all the privileges and benefits for their legal defence that are done in the
provided or enacted in or by an Act of parliament made in the execution of
eleventh year of His Majesty's reign, (intituled An Act for the this Act, en-
enforcing the Execution of an Act made in the ninth Year of titled to the
His Majesty's reign, intituled An Act for laying a Duty on the benefit of the
Retailers of Spirituous Liquors, and for licensing the Retailers Act of
thereof,) for persons employed in the execution of the said 11 Geo. II.
Act [*]. [c. 26.]

* * * * *

[*] The Act 11 Geo. 2, c. 26, (which is rep., Stat. Law Rev. Act, 1867,) contained the following enactment:—

Sect. 3. And be it further enacted by the authority aforesaid, that if any action or suit shall be brought and prosecuted by any person or persons in any inferior or other court than in His Majesty's courts of record at Westminster, or the court of great sessions in Wales, or the courts of session in counties palatine, against any justice of the peace or other person or persons employed in the execution of this Act or of the said Acts made in the ninth and in the tenth years of His present Majesty's reign, or either of them, for any matter, cause, or thing by him or them done, committed, or executed by virtue or reason of this Act, or of the said Acts, or any or either of them, or of any clause or article therein contained, it shall and may be lawful to and for the defendant or defendants in such action or suit, upon his, her or their making affidavit that he, she, or they intend to insist in his, her, or their defence to such action or suit upon this Act, or the said Acts, or

one of them, to remove such action or suit into any of His Majesty's courts of record at Westminster, so that the writ or writs for removing the same be delivered to the steward, judge, or proper officer of the said inferior or other court, before issue joined in the said action or suit; and such defendant or defendants may plead the general issue, and give this Act and the said Acts, or any of them, and special matter in evidence at the trial, and that the same was done in pursuance and by the authority of this Act, of the said Acts, or any or either of them; and if it shall appear so to have been done, then the jury shall find for the defendant or defendants; and if the plaintiff shall be nonsuited, or discontinue his or her action after the defendant shall have appeared, or if judgment shall be given upon any verdict or demurrer against the plaintiff, the defendant and defendants shall and may recover treble costs, and have the like remedy for the same as defendants have in other cases at law.

[As to treble costs, see 5 & 6 Vict. c. 97, s. 2.]

25 GEO. II. CHAP. 36.

AN ACT for the better preventing Thefts and Robberies, and for regulating Places of public Entertainment, and punishing Persons keeping disorderly Houses.

* * * * *

Constable's duty upon notice given him of persons keeping a bawdy-house, gaming-house, or other disorderly houses, &c.

The charges of prosecution to the constable,

and 10*l.* on conviction, to each of the two inhabitants, to be paid by the overseers, on penalty of forfeiting double the sum.

V. And in order to encourage prosecutions against persons keeping bawdy-houses, gaming-houses, or other disorderly houses, be it enacted by the authority aforesaid, that if any two inhabitants of any parish or place, paying scot, and bearing lot therein, do give notice in writing to any constable (or other peace officer of the like nature, where there is no constable) of such parish or place, of any person keeping a bawdy-house, gaming-house, or any other disorderly house, in such parish or place, the constable or such officer as aforesaid, so receiving such notice, shall forthwith go with such inhabitants to one of His Majesty's justices of the peace of the county, city, riding, division, or liberty in which such parish or place does lie; and shall, upon such inhabitants making oath before such justice, that they do believe the contents of such notice to be true, and entering into a recognizance in the penal sum of twenty pounds each, to give or produce material evidence against such person for such offence, enter into a recognizance in the penal sum of thirty pounds, to prosecute with effect such person for such offence, at the next general or quarter session of the peace, or at the next assizes to be holden for the county in which such parish or place does lie, as to the said justice shall seem meet; and such constable or other officer shall be allowed all the reasonable expenses of such prosecution, to be ascertained by any two justices of the peace of the county, city, riding, division, or liberty where the offence shall have been committed, and shall be paid the same by the overseers of the poor of such parish or place; and in case such person shall be convicted of such offence, the overseers of the poor of such parish or place shall forthwith pay the sum of ten pounds to each of such inhabitants; and in case such overseers shall neglect or refuse to pay to such constable or other officer such expenses of the prosecution as aforesaid, or shall neglect or refuse to pay upon demand, the said sums of ten pounds and ten pounds, such overseers, and each of them, shall forfeit to the person entitled to the same, double the sum so refused or neglected to be paid (a).

(a) See 58 Geo. 3, c. 70, ss. 7, 8.

REWARD.

Decisions on sect. 5.

Where two inhabitants of the parish took upon themselves to conduct the prosecution, they were held not entitled to the reward. The prosecu-

VI. Provided always, that upon such constable or other officer entering into such recognizance to prosecute as aforesaid, the said justice of the peace shall forthwith make out his warrant to bring the person so accused of keeping a bawdy-house, gaming-house, or other disorderly house, before him, and shall bind him or her over to appear at such general or quarter sessions or assizes, there to answer to such bill of indictment as shall be found against him or her for such offence; and such justice shall and may, if in his discretion he thinks fit, likewise demand and take security for such person's good behaviour in the meantime, and until such indictment shall be found, heard and determined, or be returned by the grand jury not to be a true bill.

Persons keep-
ing such
bawdy-house,
&c. to be bound
over to appear
to answer the
indictment.

VII. Provided also, that in case such constable shall neglect or refuse, upon such notice, to go before any justice of the peace, or to enter into such recognizance, or shall be wilfully negligent in carrying on the said prosecution, he shall for every such offence forfeit the sum of twenty pounds to each of such inhabitants so giving notice as aforesaid.

Constable
neglecting
his duty for-
feits 20*l*.

VIII. And whereas, by reason of the many subtle and crafty contrivances of persons keeping bawdy-houses, gaming-houses, or other disorderly houses, it is difficult to prove who is the real owner or keeper thereof, by which means many notorious offenders have escaped punishment: Be it enacted by the authority aforesaid, that any person who shall at any time hereafter appear, act or behave him or herself as master or mistress, or as the person having the care, government, or management of any bawdy-house, gaming-house or other disorderly house, shall be deemed and taken to be the keeper thereof, and shall be liable to be prosecuted and punished as such, notwithstanding he or she shall not in fact be the real owner or keeper thereof.

Who shall be
deemed the
keeper of such
bawdy-house,
&c.

* * * * *

X. No indictment which shall at any time after the said first Indictment not removable

REWARD—continued.

tion should have been conducted by the parish constable: *Clarke v. Rice*, *Decisions on* 1 B. & Ald. 694. *sect. 5.*

Where a recognizance has been entered into under 25 Geo. 2, c. 36, s. 5, the jurisdiction of the borough sessions to try the offence is not taken away: *Reg. v. Charles*, 7 Jur. (N. S.) 1308.

In an action against the overseers by two inhabitants, founded upon this statute, it was held that, though the defendants were not overseers at the time of the trial, they were overseers at the time the prisoner was brought up for judgment, and therefore that the action was properly brought, *Burgess v. Boetefeur*, 13 L. J. M. C. 122.

by *certiorari* day of June [*] be preferred against any person for keeping a bawdy-house, gaming-house, or other disorderly house, shall be removed by any writ of *certiorari* into any other court, but such indictment shall be heard, tried, and finally determined at the same general or quarter sessions or assizes where such indictment shall have been preferred (unless the court shall think proper, upon cause shown, to adjourn the same), any such writ or allowance thereof notwithstanding.

* * * * *

Recovery of forfeitures, XIII. Any person entitled to any of the forfeitures by this Act imposed may sue for the same by action of debt in any of his Majesty's courts of record at Westminster, in which it shall be sufficient to declare that the defendant is indebted to the plaintiff in the sum of being forfeited by an Act, intituled "An Act for the better preventing Thefts and Robberies, and for regulating Places of public Entertainment, and punishing Persons keeping disorderly Houses;" and the plaintiff, Full costs. if he recover in any such action, shall have his full costs.

Limitation of actions. XIV. Provided, that no action shall be brought by virtue of this Act unless the same shall be commenced within the space of six calendar months after the offence committed.

* * * * *

[*] *i. e.* 1st June, 1752.

26 GEO. II. CHAP. 14.

AN ACT for the settling and ascertaining the Fees to be taken by Clerks to Justices of the Peace.

Preamble. WHEREAS some doubts have arisen touching the fees due to clerks of justices of the peace: And whereas it would tend to the due execution of the laws, and to the ease of the subject, that the fees to be taken by the said clerks should be ascertained: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that the justices of the peace throughout that part of Great Britain called England, at their respective general quarter sessions of the peace, to be held next after the twenty-fourth day of June one thousand seven hundred and fifty-three, shall, and they are hereby required to make and settle a table of the fees which shall be taken by clerks to justices of the peace within the county, city,

Justices to settle a table of fees to be taken by their clerks;

or other division, for which such respective general quarter sessions shall be held; and such respective table of fees, being approved by the justices of the peace at the next succeeding general quarter sessions of the peace for such county, city, or other division, with such alterations as such justices of the peace so assembled shall think proper, shall be laid before the judges at the next assizes, or at the great sessions for the principality of Wales, and counties palatine of Chester, Lancaster, and Durham, for the respective county, city, or other division (a); and the said judges are hereby authorized and required to ratify and confirm such respective table of fees, in such manner and form as the same shall be made, settled, and approved of by the said justices, or with such alterations, additions or abatements, as to such judges shall appear to be just and reasonable; and it shall and may be lawful for the said justices of peace, in their respective quarter sessions assembled, from time to time to make any other table of fees to be taken, instead of the fees contained in the table which shall have been ratified and confirmed by the judges of assize; and after the same shall have been approved by the justices of the peace at the next succeeding general quarter sessions, in manner as aforesaid, to lay such new table of fees before the judges at the next assizes, or at the great sessions for the principality of Wales and counties palatine of Chester, Lancaster, and Durham, who are hereby empowered and authorized to approve and ratify the same in manner as aforesaid, if they think fit; but no table of fees to be made and settled by the said respective justices of peace, shall be of any validity or effect whatsoever until the same shall be ratified and confirmed by the said judges (b).

the same to be laid before and ratified by the judges of assize.

Justices may from time to time make new tables of fees;

which are to be laid before and ratified in the same manner by the judges of assize.

II. If at any time after the space of three calendar months from the time that such table of fees shall be made and ratified as aforesaid, any clerk or clerks to any justices or justice of the peace, or any person or persons acting as such, shall, under pretence of any matter or thing done, transacted or performed by such justice or justices in the execution of his or their office

Penalty of 20*l.* on clerks taking other greater fees than allowed in the table.

(a) See 27 Geo. 2, c. 16, s. 4; and 57 Geo. 3, c. 91, s. 1.

(b) See 11 & 12 Vict. c. 43, s. 30.

APPROVAL OF TABLE OF FEES.

The enactment in the 26 Geo. 2, c. 14, s. 1, that the tables of fees shall be "approved by the justices of the peace at the next succeeding general quarter sessions of the peace," and laid before the judges at the next assizes, is imperative. Where, therefore, the approving of the tables was adjourned from the next succeeding quarter sessions to the then following quarter sessions, at which the tables were approved and afterwards ratified by the judges: held, that the Act had not been complied with, and that the tables were invalid: *Bowman v. Blyth*, 7 E. & B. 47; 21 J. P. 244; 22 J. P. 5; 3 Jur. (N. S.) 359; 26 L. J. M. C. 57. Confirmed in error from Q. B. 29 L. T. 312; 8 E. & B. 7.

Decision on sect. 1.

or offices, or done, transacted or performed, by such person or persons as clerk or clerks to such justice or justices, demand or receive any other or greater fee than shall have been ascertained, ratified and confirmed in manner as aforesaid, such person shall for every such offence, forfeit and pay twenty pounds to any person who shall sue for the same by action of debt, bill, plaint or information, in any of His Majesty's courts of record at Westminster, wherein no essoin, privilege, protection, wager of law, or more than one imparlance shall be granted or allowed (a).

Tables of the fees to be deposited with the clerks of the peace, and copies thereof to be placed in the room where the sessions are held, under penalty of 10*l*.

III. All the tables of fees which shall be made and settled, and ratified and confirmed from time to time as aforesaid, shall be deposited with the clerk of the peace for the respective county, city, or other division; and each of the said clerks of the peace shall cause true and exact written or printed copies of the said tables to be placed and to be kept constantly in a conspicuous part of the room or place where the general or quarter sessions shall be held; under pain of forfeiting the sum of ten pounds for each offence, to be recovered by action of debt, bill, plaint or information, in any of His Majesty's courts of record at Westminster, wherein no essoin, privilege, protection, wager of law, or more than one imparlance shall be granted or allowed.

Limitation of actions.

IV. Provided always, that all suits and actions which shall be brought or commenced by virtue of this Act, shall be brought before the end of three months after the offence committed, and not otherwise.

(a) See 57 Geo. 3, c. 91, s. 2.

26 GEO. II. CHAP. 27.

AN ACT to confirm certain Acts and Orders made by Justices of the Peace being of the *Quorum*, notwithstanding any defect in not expressing therein that such Justices of the Peace are of the *Quorum*.

Preamble.

WHEREAS authority is given by divers Acts of parliament to two or more justices of the peace, whereof one or more are to be of the *quorum*: And whereas divers acts, orders, adjudications, warrants, confirmations of indentures, and other instruments done, made, and executed, by two or more justices of the peace, without expressing that they are, or that one of them is, of the *quorum*, have been, and may be, for that reason only, impeached, set aside and vacated: Be it enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and

after the twenty-fourth day of June, in the year one thousand seven hundred and fifty-three, no act, order, adjudication, warrant, indenture of apprenticeship, or other instrument already made, done, or executed, or hereafter to be made, done, or executed, by two or more justices of the peace, which doth not express that one or more of the justices is or are of the *quorum*, shall be impeached, set aside, or vacated, for that defect only; any law, statute, or usage to the contrary notwithstanding (*b*).

No act or order of two or more justices, to be vacated for defect only, in not expressing that one or more of such justices are of the *quorum*.

(*b*) See 7 Geo. 3, c. 21; and 4 Geo. 4, c. 27; see also 35 Geo. 3, c. 101, s. 5.

27 GEO. II. CHAP. 3.

AN ACT for the better securing to Constables and others the Expenses of conveying Offenders to Gaol; and for allowing the Charges of poor Persons bound to give Evidence against Felons.

WHEREAS by an Act passed in the third year of the reign of King James the First, intituled "An Act for the Rating and Levying of the Charges for conveying Malefactors and Offenders to the Gaol," every offender so to be conveyed shall bear the charges of himself and of those who convey him, and if he refuse so to do, his goods within the same county may be distrained and sold to satisfy the same; and if he hath no goods, the constable, churchwardens, and other inhabitants of the parish where he was taken shall make a tax on every inhabitant thereof to pay the said charges: And whereas the taxing the parish where such offender was taken to pay such charges is a great discouragement to parishes to take offenders, and it is also found by experience to be very difficult to make a rate on the inhabitants to raise such tax, whereby constables and others are often kept out of their money by them advanced for the service of the public, and sometimes lose the same, to their very great injury and vexation: For remedy whereof be it enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the twenty-fourth day of June one thousand seven hundred and fifty-four, when any person not having goods or money within the county where he is taken sufficient to bear the charges of himself and of those who convey him, is committed to gaol or the house of correction by warrant from any justice or justices of the peace, then on application by any constable or other officer who conveyed him to any justice of the peace for the same county or place [*], shall upon

Preamble,
reciting Act
3 Jac. I.
[c. 10.]

Offenders not having money or goods sufficient to defray the expenses of conveying them to gaol, &c.

[*] There is clearly an omission here, but the roll of parliament is so. [such justice, *orig.*]

Justices to grant a warrant on the treasurer of the county for payment of the charges of such conveyance.

oath examine into and ascertain the reasonable expenses to be allowed to such constable or other officer, and shall forthwith, without fee or reward, by warrant under his hand and seal, order the treasurer of the county or place to pay the same, which the said treasurer is hereby required to do as soon as he receives such warrant, and any sum so paid shall be allowed in his accounts.

* * * * *

In Middlesex, the overseers of the poor of the parish where the offender was taken, to pay all such charges.

IV. Provided always, that nothing in this Act contained shall extend to empower any justice or justices of the peace to make warrants or orders on the treasurer of the county of Middlesex for the payment of the expenses of the constable or other officer in conveying any person to gaol but that within the said county of Middlesex the expenses of the constable or other officer occasioned by his conveying of any person to gaol, by virtue of a warrant from any justice or justices of the peace shall (after such expenses have been examined into upon oath and allowed by such justice or justices, and for which no fee or reward shall be taken) be paid by the overseer or overseers of the poor of the parish or place where the said person was apprehended, who is and are hereby authorized and required to pay the same, and the sum or sums so paid shall be allowed in his or their accounts (a).

(a) See 7 Geo. 4, c. 64; and 14 & 15 Vict. c. 55.

27 GEO. II. CHAP. 16.

AN ACT * * * for confirming the Table of Fees to be taken by the Clerks to the Justices of the Peace for the County of Middlesex.

* * * * *

Act 26 Geo. II.
[c. 14.]

IV. And whereas by an Act passed in the last session of parliament, entitled "An Act for the settling and ascertaining the Fees to be taken by Clerks to the Justices of the Peace," it is thereby enacted that the tables of fees therein required to be made and approved by the justices of the peace at their respective general quarter sessions throughout that part of Great Britain called England, should be laid before the judges at the next assizes, who are thereby required to ratify and confirm the same in manner as therein mentioned: And whereas no sufficient provision is therein made for the ratifying and confirming the tables of fees made, settled, and approved, or to be made,

settled, and approved by the justices of the peace for the county of Middlesex: Be it therefore enacted by the authority aforesaid, that the table of fees to be taken by the clerks to justices of the peace for the county of Middlesex, which is or shall from time to time be made, settled and approved by the said justices for the said county at their general or quarter sessions, shall be laid before the lord chief justice of the King's Bench, the lord chief justice of the Common Pleas, and the lord chief baron of the Exchequer, or any two of them, who are hereby authorized and required to ratify and confirm such table or fees in such manner and form as the same shall be so made, settled, and approved of, or with such alterations, additions or abatements, as to the said lord chief justice of the King's Bench, the lord chief justice of the Common Pleas, and the lord chief baron of the Exchequer, or any two of them, shall appear to be just and reasonable; and the said justices of the peace for the said county are hereby empowered and required to make a table of such fees at their next general or quarter sessions to be held for the said county after the twenty-fourth day of June one thousand seven hundred and fifty-four, and to approve or alter the same at the next succeeding general or quarter sessions, and from time to time and in like manner to make and approve any other table of such fees (b).

Table of fees for clerks of justices in the county of Middlesex, after being approved at the quarter sessions, to be ratified by the lord chief justice of the King's Bench, Common Pleas, and chief baron of the Exchequer, or two of them.

(b) See 26 Geo. 2, c. 14; 57 Geo. 2, c. 91.

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31 GEO. II. CHAP. 11.

AN ACT to amend an Act made in the third Year of the Reign of King William and Queen Mary, intituled "An Act for the better Explanation and supplying the Defects of the former Laws for the Settlement of the Poor," so far as the same relates to Apprentices gaining a Settlement by Indenture; * * *

WHEREAS by an Act made in the third year of the reign of King William and Queen Mary, intituled "An Act [3 Wm. & M. c. 11.] for the better Explanation and supplying the Defects of the former Laws for the Settlement of the Poor," it is enacted, that if any person shall be bound an apprentice by indenture, and inhabit in any town or parish, such binding and habitation shall be adjudged a good settlement: And whereas since the making the said Act, great numbers of persons have been unwarily bound apprentices by certain deeds, writings, or

Persons bound
apprentice by
deed, &c.,
though not
indented,
being first
duly stamped,
is entitled to
a settlement
where ap-
prenticed.

contracts not indented, by which binding many of them have suffered great loss and damage, on account of their having been refused a settlement in such town or parish where they have been so bound and resided forty days, and have been removed to the parish or place where their last legal settlement was before such apprenticeship, where they have had no encouragement to exercise their trades, or opportunity to gain a livelihood by their said trades to which they were so bound apprentices: For relief therefore of such apprentices, and for preventing the like mischief for the future, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that no person who shall have been bound an apprentice, or who shall hereafter be bound an apprentice, by any deed, writing, or contract not indented, being first legally stamped, shall be liable to be removed from the town, parish, or place where he or she shall have been so bound an apprentice, and resident forty days, by virtue of any order of removal granted by two justices of the peace of any county, riding, division, city, borough, town corporate, or place, or by virtue of any order of the justices at their general or quarter sessions, by reason or on account of such deed, writing, or contract not being indented only (a).

* * * * *

(a) See 14 Car. 2, c. 12, s. 1; and 3 Wm. & M. c. 11, s. 8.

6 GEO. III. CHAP. 25.

AN ACT for better regulating Apprentices, and Persons working under Contract (b).

Preamble.

WHEREAS persons employed in several manufactories of this kingdom, frequently take apprentices who are very young, and for several years of their apprenticeships are rather a burthen than otherwise to their masters; and whereas it frequently happens that such apprentices when they might be expected to be useful to their masters absent themselves from their service; and whereas the laws in being are not sufficient to prevent these inconveniences: For remedy whereof, may it please your Majesty that it may be enacted, and be it enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the twenty-fourth day of June, one

(b) See 4 Geo. 4, c. 29; 4 Geo. 4, c. 34; and 10 Geo. 4, c. 52.

thousand seven hundred and sixty-six, if any apprentice shall absent himself from his master's service before the term of his apprenticeship shall be expired, every such apprentice shall at any time or times thereafter, whenever he shall be found, be compelled to serve his said master for so long a time as he shall have so absented himself from such service, unless he shall make satisfaction to his master for the loss he shall have sustained by his absence from his service, and so from time to time as often as any such apprentice shall without leave from his master absent himself from his service before the term of his contract shall be fulfilled; and in case any such apprentice shall refuse to serve as hereby required, or to make such satisfaction to his master, such master may complain, upon oath, to any justice of the peace of the county or place where he shall reside, which oath such justice is hereby empowered to administer, and to issue a warrant under his hand and seal, for apprehending any such apprentice; and such justice upon hearing the complaint, may determine what satisfaction shall be made to such master by such apprentice; and in case such apprentice shall not give security to make such satisfaction according to such determination, it shall and may be lawful for such justice to commit every such apprentice to the house of correction, for any time not exceeding three months.

Justices empowered to oblige apprentice absented himself before expiration of his apprenticeship, to serve for such term as he shall absent himself, or to make satisfaction;

II. Provided always, that nothing in this Act contained shall extend to any apprentice, whose master shall have received with such apprentice the sum of ten pounds.

except as to apprentices paying 10*l.* fee;

III. Provided also, that no apprentice shall be compelled to serve for any time or term, or to make any satisfaction to any master after the expiration of seven years next after the end of the term for which such apprentice shall have contracted to serve, anything herein contained to the contrary notwithstanding.

or where seven years shall have elapsed after expiration of apprenticeship.

IV. And whereas it frequently happens that artificers, callicoe printers, handicraftsmen, miners, colliers, keelmen, pitmen, glassmen, potters, labourers, and others who contract with persons for certain terms, do leave their respective services before the terms of their contracts are fulfilled, to the great disappointment and loss of the persons with whom they so contract: For remedy whereof be it further enacted, by the authority aforesaid, that from and after the said twenty-fourth day of June, one thousand seven hundred and sixty-six, if any artificer, callicoe printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person shall contract with any person whomsoever, for any time or times whatsoever, and shall absent himself from his service before the term of his contract shall be completed, or be guilty of any other misdemeanor; that

Justices empowered to grant warrants against artificers and others not fulfilling their contract, or being guilty of any misdemeanor,

and upon conviction to commit the offender.

Persons aggrieved by the order of a justice (except in cases of commitment) may appeal; giving notice to the justice, and entering into recognizance, &c. Justices at the quarter sessions empowered to determine the appeal; and award costs.

Their judgment final.

Limitation of this Act with respect to the stannaries, and city of London.

then, and in every such case, it shall and may be lawful for any justice of the peace of the county or place where any such artificer, callicoe printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person shall be found, and such justice is hereby authorized and empowered, upon complaint thereof made upon oath to him by the person with whom such artificer, callicoe printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person shall have so contracted, or by his or her steward or agent, which oath such justice is hereby empowered to administer, to issue his warrant for the apprehending every such artificer, callicoe printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person, and to examine into the nature of the complaint: and if it shall appear to such justice that any such artificer, callicoe printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person, shall not have fulfilled such contract, or hath been guilty of any misdemeanor, it shall and may be lawful for such justice to commit every such person to the house of correction for the county or place where such justices shall reside, for any time not exceeding three months, nor less than one month.

V. Provided always, that if any person shall think himself aggrieved by such determination, order, or warrant of any justice of the peace as aforesaid, except an order of commitment, every such person may appeal to the next general quarter sessions of the peace to be held for the county or place where such determination or order shall be made; such person giving six days' notice of his intention of bringing such appeal, and of the cause and matter thereof, to such justice of the peace, and the parties concerned, and entering into a recognizance within three days after such notice, before some justice of the peace for such county or place, with sufficient surety, conditioned to try such appeal at, and abide the order or judgment of, and pay such costs as shall be awarded by the justices at such quarter sessions; which said justices at their said sessions, upon due proof of such notice being given, and of entering into such recognizance as aforesaid, shall and are hereby directed to proceed in, hear, and determine the causes and matters of all such appeals; and shall give such relief and costs to the parties appealing or appealed against, as they in their discretion shall judge proper and reasonable; and their judgments and orders therein shall be final and conclusive to all parties concerned.

VI. Provided also, that nothing in this Act contained shall extend to the stannaries in the counties of Devon and Cornwall, or to impeach or lessen the jurisdiction of the Chamberlain of the city of London, or of any other court within the said city, touching apprentices.

7 GEO. III. CHAP. 21.

AN ACT to obviate Inconveniences which may arise with respect to the Execution of several Acts of Parliament in such Cities, Boroughs, Towns Corporate, Franchises, and Liberties, as have only one Justice of the Peace of the *Quorum* qualified to act within the same.

WHEREAS authority is given by divers Acts of parliament to two or more justices of the peace, whereof one or more are to be of the *quorum*: And whereas many inconveniences have arisen in such cities, boroughs, towns corporate, franchises, and liberties, as have only one justice of the peace of the *quorum*, qualified to act within the same: Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this present Act, all acts, orders, adjudications, warrants, indentures of apprenticeship, or other instruments, which shall be made, done, or executed, by virtue of any Act or Acts of parliament made or to be made by two or more justices of the peace qualified to act within such cities, boroughs, towns corporate, franchises, and liberties, though neither of the said justices are of the *quorum*, shall be valid and effectual in law, to all intents and purposes, as if one of the said justices had been of the *quorum*, any law, statute, or usage to the contrary notwithstanding (a).

Preamble.

Two or more justices, tho' not of the *quorum*, empowered to carry certain Acts into execution.

(a) See 26 Geo. 2, c. 27; 35 Geo. 3, c. 101, s. 5; and 4 Geo. 4, c. 27.

9 GEO. III. CHAP. 31.

AN ACT for establishing and well governing an Hospital for the Reception, Maintenance, and Employment of Penitent Prostitutes (b);

* * * * *

VIII. No person who shall be admitted into the said hospital as a penitent prostitute, or who shall be employed in the said hospital as a hired servant, shall by reason of such admittance or service, gain a settlement in the parish in which the said hospital is or shall be situate.

Persons admitted into the hospital, or employed therein, to gain no settlement in the parish thereby.

* * * * *

(b) This Act is local and personal, but it is classed as a Public and General Act.

9 GEO. III. CHAP. 37.

AN ACT * * * for preventing Parish Poor being paid in
base or counterfeit Coin.

* * * * *

Churchwar- VII. If any churchwarden or overseer of any parish, town-
dens, overseers ship, or place, or other person authorized or instructed
or others, by them, or any of them, to make payments to or for the
intrusted to use of the poor within such parish, township, or place respec-
make pay- tively, shall wilfully and knowingly, at any time from and
ments to or for after the twenty-fourth day of June next, make any such
the use of the payments, in any base or counterfeit money, or in any
poor, making other than lawful money of Great Britain; that then, upon
the same in complaint thereof made to any justice of the peace of the
any other than county, riding, division, or place, wherein such payment shall
lawful money, be so made as aforesaid, it shall and may be lawful to and for
such justice, and he is hereby required to summon the church-
warden, overseer, or other person charged with such offence,
and in a summary way, upon his or their non-appearance or
confession, or upon proof of such offence upon oath of one or
more credible witness or witnesses (which oath the said justice
is hereby authorized to administer), to adjudge the party so
offending to forfeit and pay for each offence a sum not less than
ten shillings, nor more than twenty shillings; and to levy the
same by distress and sale of the goods and chattels of such
offender; rendering the overplus, if any, to the owner, after the
charges of such distress and sale shall be deducted, which sum
shall be applied for the use of any poor person or persons of
such parish, township, or place respectively, in such manner as
the justice of peace who shall adjudge such forfeiture shall
direct or appoint.

forfeit not less than 10s. nor more than 20s. for every such offence;

to be applied to the use of any of the poor of the parish.

13 GEO. III. CHAP. 82.

AN ACT for the better Regulation of Lying-in Hospitals, and
other Places, appropriated for the Charitable Reception
of Pregnant Women; and also to provide for the Settlement
of Bastard Children, born in such Hospitals and Places (a).

Preamble. WHEREAS, through the humane and benevolent assistance of
well-disposed persons, many hospitals and places have been

(a) See 4 & 5 Will. 4, c. 76, ss. 69—71; and 7 & 8 Vict. c. 101,
ss. 1—8.

established for the charitable reception of pregnant women, which have afforded great relief in times of the utmost distress, and therefore merit every due support and encouragement; but some inconveniences having been found to arise from the number of bastard children born in such hospitals and places, which have become heavy burthens, and have occasioned unreasonable charges upon those parishes wherein such hospitals and places have been instituted, to their great and unjust oppression: And whereas it would tend as well to promote the interest of such hospitals and places, as to give a seasonable relief to such parishes if a law was made to regulate the settlement of such bastard children: May it please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the first day of November, one thousand seven hundred and seventy-three, no hospital or place shall be established, used, or appropriated, or continue to be used or appropriated, for the public reception of pregnant women, under public or private support, regulation and management, in any parish within that part of Great Britain called England, unless a licence shall be first had and obtained, in manner hereafter mentioned, from the justices of the peace, at some one of their general quarter sessions to be held for the county, riding, division, city, or corporation, wherein such hospital or place shall be situated; and such justices are hereby authorized and required to grant such licence to any person or persons who shall apply for the same, such person or persons paying the sum of forty shillings for every such licence to the clerk of the peace of such county, riding, or division, or to the town clerk of such city or corporation, as a perquisite for his trouble, and as a fund to defray the expense of the stamp and parchment that shall be used for the grant of such licence.

After Nov. 1, 1773, no hospital to be established for the reception of pregnant women, unless a licence be obtained;

which licence the justices, at their quarter sessions, are empowered to grant.

II. And be it further enacted, that every such licence shall be written on parchment, and stamped with a five shilling stamp; and a copy thereof shall be entered in a book to be kept for that purpose by such clerk of the peace, or town clerk, and preserved as a public register amongst the records of the county, riding, division, or of such city or corporation, as the case may be, to be inspected by any person or persons on payment of one shilling; and every such licence shall be signed by two or more such justices of the peace at their general quarter sessions, and shall entitle the person or persons to whom such licence shall be granted to keep one hospital, house, or place, and no more, for the public or charitable reception of pregnant women.

Every licence to be stamped with a 5s. stamp, and signed by the justices.

III. As well all hospitals, houses, and places, already established, used or appropriated for the public reception of

Hospitals now or hereafter to

be established for the reception of pregnant women, deemed within the intent of this Act.

pregnant women, and supported by charitable contributions or otherwise, for the purposes of the delivery or lying-in of such pregnant women, as all other hospitals, houses, or places, that may hereafter be established, used, and appropriated in like manner for the like purposes, shall be deemed and taken to be hospitals and places within the true intent and meaning of this Act.

Inscriptions to be affixed over the door of all hospitals.

IV. And that it may be the more easily known what hospitals, houses, or places, shall have been licenced pursuant to this Act, be it enacted, that there shall be fixed and kept up over the door, or public entrance, of every such hospital, house, or place, an inscription in large letters, in the following words: *videlicet*, LICENSED FOR THE PUBLIC RECEPTION OF PREGNANT WOMEN, PURSUANT TO AN ACT OF PARLIAMENT PASSED IN THE THIRTEENTH YEAR OF THE REIGN OF KING GEORGE THE THIRD, and the affixing and keeping such inscription shall be a condition in every such licence; and in case such inscription shall not be fixed and kept over the door or public entrance of such hospital, house, or place, such licence shall become null and void.

Bastard children born in such hospitals not to be entitled to relief as a parishioner.

V. No bastard child or children born in any such hospital, house, or place as aforesaid, shall be legally settled in, or shall be entitled to any relief as a parishioner from the parish wherein such hospital, house, or place shall be situated; but every such child or children shall follow the mother's settlement, and shall immediately gain a settlement in the parish or parishes respectively, where his, her, or their mother or mothers were last legally settled; any law, statute, usage, or custom to the contrary thereof in any wise notwithstanding (*a*).

On the removal of the mother or child, the churchwardens of the parish are to pay all expenses.

VI. In case it should become necessary to remove the mother of the child so born a bastard, and the child so born a bastard, or either of them (*b*), from the parish or place in which such hospital, house, or place shall be situated, to the parish or place to which such woman shall belong, or where she shall have obtained her last legal settlement, such parish or place, being within twenty miles of such hospital, house, or place to which

(*a*) See 35 Geo. 3, c. 101, s. 6; 51 Geo. 3, c. 79, s. 7; 54 Geo. 3, c. 170, s. 2; 4 & 5 Will. 4, c. 76, s. 71; and 31 & 32 Vict. c. 96, s. 13.

(*b*) See 9 & 10 Vict. c. 66, s. 3.

ROOM IN PARISH WORKHOUSE.

Decision on sect. 3.

A room in a parish workhouse licensed pursuant to 13 Geo. 3, c. 82, and appropriated to the reception of, and used for the purpose of delivering of pregnant women resident within the parish, whether settled there or elsewhere, and the expenses of which room were defrayed in common with the general expenses of the workhouse, was held not to be a hospital or place within s. 3 of the Act: *Rex v. Manchester*, 4 B. & Ald. 514.

she shall be so removed, shall be chargeable with, and liable to the payment of all charges and expenses incident to or attending such removals (c); such charges and expenses to be allowed and settled by any justice or justices of the peace (who is and are hereby required to allow and settle the same), in and for the county, riding, division, city, corporation, or place in which the parish or place shall be situated, to which such mother and child, or either of them, shall be removed as aforesaid: and if such charges and expenses, after being allowed and settled as aforesaid, and demand thereof made in writing, directed to the churchwardens or overseers of the poor of the parish to which such mother and child, or either of them, shall be removed as aforesaid, shall not be paid within two days after such demand, then, and in every such case, it shall and may be lawful to and for any one or more of His Majesty's justices of the peace in and for the county, riding, division, city, corporation, or place, in which the parish shall be situated, to which such mother and child, or either of them, shall be removed, and he or they is and are hereby required by warrant under his or their hand and seal, or hands and seals, to levy the same by distress and sale of the goods and chattels of the churchwardens or overseers of the poor making such refusal as aforesaid, or on the goods and chattels of any or either of them.

VII. Provided always, that if any person or persons shall think himself or themselves aggrieved by such removal or distress had or made in pursuance of this Act, every such person may appeal to the quarter sessions of the peace, to be holden for the county, riding, division, city, corporation, or place, wherein he shall have suffered such grievance, within four months after the fact done, by which he shall think himself so aggrieved, such appellant first giving, or causing to be given, fourteen days' notice at the least, in writing, of the intention to bring such appeal, and of the matter thereof, to the party or parties against whom such appeal is intended to be brought, and within two days next after such notice given entering into recognizance, with two sufficient sureties, conditioned to try such appeal, and to abide the order of, and to pay such costs as shall be awarded by the justices at the said quarter sessions, and the said justices shall then hear and determine the causes and matters of appeal in a summary way, and award such costs to the parties appealing or appealed against, as they the said justices shall think proper, and the determination of such justices so made shall be final, binding, and conclusive, to all intents and purposes whatsoever (d).

Appeal may be made to quarter sessions by persons aggrieved,

giving fourteen days' notice.

* * * * *

(c) See 9 & 10 Vict. c. 66, s. 4.

(d) See 11 & 12 Vict. c. 31.

Proviso.

IX. Provided always, that nothing in this Act contained shall extend, or be construed to extend, to alter the law as it now stands relative to the settlement of any bastard child so born as aforesaid, in cases where the mother's settlement cannot be ascertained and determined (*a*).

Owners or masters of hospitals to take the woman, before admitted, to be examined before a justice.

X. The owner, keeper, governor, master, secretary, clerk, or other person, who shall have, or to whom shall be intrusted the care, conduct, or management of such hospital, house, or place, shall, and he, she, or they, is and are hereby directed and required, before the admission of any pregnant woman into such hospital, house, or place, forthwith (unless prevented by sickness) to take, or cause to be taken, such woman before some justice of the peace in and for the county, riding, division, city, corporation, or place, where such hospital, house, or place is situated, which justice is hereby directed and required to examine her upon oath, whether she is married or single; and in case such pregnant woman shall not be able, at the time of such admission, to go before such justice and to be examined as aforesaid, that then and in every such case it shall and may be lawful to and for the said owner, keeper, governor, master, secretary, clerk, or other person as aforesaid, and he, she, or they, is and are hereby directed and required when and so soon as such woman shall be sufficiently recovered, to take, or cause to be taken, such woman before such justice, to be by him examined as aforesaid, any law, statute, usage, or custom to the contrary thereof in any wise notwithstanding: and all and every the particulars of such examination, taken upon oath as aforesaid, shall be entered in a book, to be provided and kept for that purpose by the owner, keeper, governor, master, secretary, clerk, or other person as aforesaid, and signed by the justice of the peace before whom such examination is taken, who is hereby directed and required to sign the same.

If the woman produce an affidavit that she is married, or single, she is not liable to go before the justice.

XI. Provided always, that if any woman, on admission into such hospital, house, or place, shall produce an affidavit, sworn by her before such justice of the peace for the city of London, or for the county, riding, division, city, corporation, or place, wherein such hospital, house, or place shall be situated, that she is a married or single woman, as the case may be, which affidavit shall be kept and filed at every such hospital, house, or place; then, and in every such case, such woman shall not be liable or compellable by this Act to go before any justice of the peace, or to be further examined on oath as to her marriage.

When any woman shall be delivered of a bastard, the

XII. If any woman shall be delivered of a bastard child in such hospital, house, or place, such owner, keeper, governor, master, secretary, clerk, or other person as aforesaid, shall,

(*a*) See 35 Geo. 3, c. 101, s. 6; 4 & 5 Will. 4, c. 76, s. 71.

four days at the least before any such woman shall be discharged, give or cause to be given, a personal notice, or notice in writing of such delivery, to be left at the usual place of abode of the overseer or overseers, churchwarden or churchwardens of such parish or place wherein such hospital, house, or place shall be situated; and such overseer or overseers, churchwarden or churchwardens, or some or one of them is and are hereby authorized and required, after such notice given, to attend at such hospital or place, within the time so notified as aforesaid, and shall convey every such woman before some justice of the peace of the county, riding, division, city, corporation, or place where such birth or births shall happen, who shall examine every such woman upon oath relative to her last legal settlement, and shall certify in writing to such overseer or churchwarden the whole of such examination, who shall cause the same to be deposited and kept amongst the books and papers belonging to such parish or place.

owner of the hospital is to give four days' notice before she is discharged to the overseer.

XIII. If at any time such overseer or churchwarden shall, upon such attendance, be informed by such owner, keeper, governor, master, secretary, clerk, or other person, that any such woman is not sufficiently recovered to be taken out and carried before such justice, such overseer or churchwarden shall wait till a further notice shall in like manner be given; and such notices from time to time shall be repeated as occasion may require; and every such overseer and churchwarden who shall receive the same is hereby required to pay due attention thereto.

Overseers attending, and being informed that such woman is not sufficiently recovered, shall wait till a further notice be given.

XIV. Provided always, that it shall and may be lawful for every such owner, keeper, governor, master, secretary, clerk, or other person, to keep and detain in such hospital, house, or place, every such woman so delivered of a bastard child, till she shall be adjudged in a fit condition to be discharged and until she shall have been examined before some justice of the peace, as aforesaid, with respect to the place of her last legal settlement.

Every woman may be kept in the hospital till she be in a fit condition to be discharged, &c.,

XV. Provided always, that nothing in this Act shall extend, or be construed to extend, to authorize or empower any person whatsoever to keep and detain in such hospital, house, or place, any woman so delivered of a bastard child, for a longer time than six weeks after the birth of such child, unless it shall be done by her own free consent.

but not to extend to keep any woman longer than six weeks, without her consent.

XVI. Every such owner, keeper, governor, master, secretary, clerk, or other person as aforesaid, who shall wilfully neglect or refuse to comply with the directions of this Act, shall forfeit and pay, for every such neglect or refusal, the sum of fifty pounds; and every such overseer or churchwarden who shall in

Owners, governors, &c. not complying with the directions of this Act to forfeit

50*l.*, and over-
seers, &c.
neglecting or
refusing, to
forfeit 10*l.*

How penalties
may be re-
covered and
applied.

like manner neglect or refuse to comply with the directions of this Act, shall, for every such neglect or refusal, forfeit and pay the sum of ten pounds; which penalties or forfeitures shall be recovered, with full costs of suit, by action of debt, bill, plaint, or information, in any of His Majesty's courts of record at Westminster, by any person or persons who shall sue for the same; and such forfeitures and penalties when recovered shall be applied, one moiety to the use of the poor of the parish where such offence shall have been committed, and the other moiety to the person or persons who shall sue for and recover the same.

General issue.

XVII. If any action or suit shall be commenced against any person or persons for anything by him or them done or executed in pursuance of this Act, the defendant or defendants, in such action or suit, shall and may plead the general issue, and give this Act, and the special matter, in evidence, at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this Act; and if afterwards a verdict shall pass for the defendant or defendants, or the plaintiff or plaintiffs shall become nonsuited, or discontinue his, her, or their action or prosecution, or judgment shall be given against him, her, or them, upon demurrer or otherwise, then such defendant or defendants shall have treble (*a*) costs awarded to him or them against such plaintiff or plaintiffs.

Treble costs.

Actions when
to be com-
menced.

XVIII. Provided always, that no such action or suit shall be brought by virtue and in pursuance of this Act, unless the same be commenced within six calendar months after the offence committed.

Public Act.

XIX. This Act shall be deemed a public Act, and as such taken notice of by all judges, justices, and other persons, without specially pleading the same.

(*a*) Repealed as to treble costs by 24 & 25 Vict. c. 101.

18 GEO. III. CHAP. 19.

AN ACT for the Payment of Costs to Parties on Complaints determined before Justices of the Peace out of Sessions; for the Payment of the Charges of Constables in certain Cases; and for the more effectual Payment of Charges to Witnesses and Prosecutors of any Larceny or other Felony.

* * * * *

Constables,
&c. shall every
three months

IV. And whereas constables, headboroughs and tithingmen are or may be at great charge in doing the business of their

parish, township or place, and in many cases are not sufficiently indemnified by the laws; be it therefore enacted by the authority aforesaid, that every constable, headborough, or tithingman, shall, every three months, and within fourteen days after he shall go out of such office, deliver to the overseers of the poor of the said parish, township or place for the time being, a just account in writing, fairly entered in a book to be kept for that purpose, and signed by him, of all sums so by him expended on account of the said parish, township or place, in all cases not hitherto provided for by the laws heretofore made, or by this Act, and also all sums received by him on the account of the said parish, township or place; and the said overseers of the poor, or their successors shall, within the next fourteen days after the said account or accounts shall be so delivered, lay the same before the inhabitants of the said parish, township or place; and in case the said account or accounts be approved of by the majority of such inhabitants, the overseers of the poor of the said parish, township or place for the time being, are hereby authorized and required to pay out of the poor rates made or to be made for such parish, township or place, such sum or sums of money as shall appear to be due on the said account or accounts; but in case the said account or accounts, or any part thereof, shall be disallowed, then the said overseers of the poor for the time being shall then deliver back to the said constable, headborough, or tithingman such book of accounts; and it shall and may be lawful to and for the said constable, headborough, or tithingman then to produce the said book before any one or more of His Majesty's justices of the peace in and for the county, riding, division, city, town corporate, franchise or liberty wherein such parish or township shall be situate, giving reasonable notice thereof to the overseers of the poor of the said parish, township or place for the time being, which said justice or justices is and are hereby authorized to examine the same, and to hear and determine any objection or objections that shall be made to the said accounts, and to settle the sum which to him or them shall appear due on the said account, and to enter the same in the said account, and to sign his or their name or names thereto; and the overseers of the poor of the said parish, township or place for the time being are hereby authorized and required to pay the said sum out of the money which shall come to their hands by virtue of any rate or assessment made or to be made for the relief of the poor (a).

deliver to the overseers an account of money by them expended or received on account of their respective parishes.

If any such account shall be disallowed a justice may settle the same.

(a) See 5 & 6 Vict. c. 109, s. 17; and 11 & 12 Vict. c. 91, s. 6.

WHAT EXPENSES ARE PAYABLE.

The expenses of a constable in prosecuting an assault committed on him in the execution of his duty, cannot be paid by the overseers out of the poor rates, and are not within 18 Geo. 3, c. 19, s. 4: *Rex v. Bird*, 2 B. & Ald. 522. *Decisions on sect. 4.*

Appeal may
be made from
the justice's
determination,
&c. to the
quarter ses-
sions,

who may
award costs.

8 & 9 Will. III.
c. 30.

Proviso rela-
ting to corpo-
rations, &c.

V. Provided nevertheless, that in case the overseer or overseers of the poor of the said parish, township, or place for the time being, shall find that the said parish, township, or place is aggrieved by any neglect, act, or thing done or omitted by the said constable, headborough, or tithingman, or by any of his Majesty's justices of the peace, or shall have any material objection to such amount, or any part thereof, or to such determination as aforesaid, it shall and may be lawful for such overseer or overseers in any of the cases aforesaid, giving reasonable notice to the said justice, constable, headborough, or tithingman, to appeal to the next general or quarter sessions of the peace for the county, riding, division, city, town corporate, franchise or liberty where such parish, township, or place lies; and the justices of the peace there assembled are hereby authorized and required to receive such appeal, and to hear and finally determine the same; but if it shall appear to the said justices that reasonable notice was not given, then they shall adjourn the said appeal to the next quarter sessions, and then and there finally hear and determine the same; and the said justices may award and order to the party for whom such appeal shall be determined reasonable costs, in the same manner that they are empowered to do in case of appeals concerning the settlement of poor persons, by an Act made in the eighth and ninth years of King William the Third, intituled *An Act for supplying some Defects in the Laws for the Relief of the Poor of the Kingdom*.

VI. Provided always, that in all corporations or liberties which have not four justices of the peace, it shall and may be

WHAT EXPENSES ARE PAYABLE—*continued*.

*Decisions on
sect. 4.*

A constable apprehended an offender for a misdemeanor committed in his presence, in a place of religious worship, and carried him before a justice, and was bound over by recognizance to prosecute. Held, that the expenses of the prosecution were not monies expended by him in doing the business of the township, and that he could not charge them in his accounts under 18 Geo. 3, c. 19, s. 4: *Rex v. Seville*, 5 B. & Ald. 180.

A superintendent constable appointed for a division comprehending the parish of C. under 2 & 3 Vict. c. 93, and 4 Vict. c. 88, expended money in fees to the justices' clerk in respect of vagrants apprehended in the parish of C. The parish for many years before these statutes had defrayed such expenses when incurred by the parish constables. Held, that the parish was liable for the expenses, inasmuch as 2 & 3 Vict. c. 93, s. 8, puts such constables in the situation of parish constables, and therefore authority might be inferred from the previous conduct of the parish, to make the disbursements in question. These were not to be deemed extraordinary expenses within 2 & 3 Vict. c. 93, s. 18, so as to be payable by the division under 3 & 4 Vict. c. 88: *Reg. v. Chelmsford*, 5 Q. B. 66; 12 L. J. M. C. 139.

APPEAL.

*Decision on
sect. 5.*

The 18 Geo. 3, c. 19, s. 5, gives an appeal only in case the majority of the overseers concur in it: *Rex v. Lancashire JJ.*, 5 B. & Ald. 755.

lawful for the overseer or overseers of the poor of the parish, township or place for the time being, where an appeal is given by this Act, to appeal, if he or they shall think fit, to the next general or quarter sessions of the peace for the county, riding, or division wherein such corporation or liberty is situate.

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18 GEO. III. CHAP. 47.

AN ACT to amend such Part of an Act, made in the forty-third Year of the Reign of Queen Elizabeth, intituled, "An Act for the Relief of the Poor," as relates to the binding of Parish Apprentices.

WHEREAS in and by an Act, made in the forty-third year of the reign of Queen Elizabeth, intituled, "An Act for the Relief of the Poor," it was enacted, that it should be lawful for the churchwardens and overseers therein mentioned, or the greater part of them, by the assent of any two justices of the peace, to bind the children of all such parents who shall not, by the said churchwardens and overseers, or the greater part of them, be thought able to keep and maintain their children, to be apprentices, where they shall see convenient, till such man-child shall come to the age of four-and-twenty years, and such woman-child to the age of one-and-twenty years, or day of marriage: And whereas it has been found by experience, that the said term respecting men-children is longer than is necessary, and that if such man-child was bound to be an apprentice only till he came to the age of one-and-twenty years all the benefits intended by the said Act would be preserved, the hardships brought on such parish apprentices, by the length of their apprenticeship, would be avoided, and the good harmony between master and apprentice would be better maintained: May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this Act, when any man-child shall be bound to be an appren-

Preamble.
Act 43 Eliz.
recited.

No child apprenticed by virtue of the recited Act to continue an apprentice after the age of twenty-one.

TERM OF BINDING.

An indenture binding a boy apprentice for a longer term than was allowed by a local Act, was held not absolutely void, but only voidable: *Decision on Rex v. St. Gregory*, 2 A. & E. 99.

tice by virtue of and under the authority of the said Act, made in the forty-third year of Queen Elizabeth, such child shall be bound to be an apprentice for no longer term than till such child shall come to the age of twenty-one (*a*) years.

(*a*) See 43 Eliz. c. 2, s. 4; 4 & 5 Will. 4, c. 76, s. 61; and 7 & 8 Vict. c. 101, s. 12.

24 GEO. III. SESS. 2, CHAP. 29.

AN ACT for vesting certain Lands, Tenements, and Hereditaments, in Trustees, for better securing His Majesty's Docks, Ships, and Stores, at Portsmouth and Plymouth; and also for revesting certain Messuages, Lands, Tenements, and Hereditaments, in the Counties of Southampton, Cornwall, and Devon, in the former Proprietors thereof; and for other Purposes therein mentioned.

* * * * *

Lands purchased in pursuance of Act, liable to tithes and taxes:

to be paid by storekeeper of Ordnance.

XIV. Provided also, that the lands vested by, and to be purchased in pursuance of this Act, which were before the passing of this Act liable to and charged with tithes, land tax, poor and other rates, in the respective parishes where such lands respectively lie, shall, from the time the same were or shall be taken possession of as aforesaid, stand and be subject and liable to and chargeable with the payment of tithes, land tax, and all other parish rates and taxes, according to the average rate at which the said lands have been heretofore assessed; and that the said lands and premises so to be charged and chargeable shall, as to so much thereof as shall not be otherwise demised or occupied by any particular person or persons, stand and be charged to, and in the name of, and paid by, the storekeeper of His Majesty's Ordnance for the time being, at the place or places where such lands respectively lie; and that such storekeeper paying the same shall be repaid and allowed such sum and sums of money as such storekeeper shall so pay, by the treasurer or paymaster of His Majesty's Ordnance for the time being, on demand thereof, who shall be allowed the same in his accounts; and that in case such storekeeper, so charged and chargeable therewith, shall neglect or refuse to pay any such tithes, taxes, or rates, so to be made on him as aforesaid when demanded, that then, and in every such case, the sum or sums so due and claimed for such tithes, and so to be assessed and charged on such storekeeper, in respect of such lands and premises, shall and may be levied on such storekeeper, by such

ways and means, and in such manner, as upon any other occupier of lands liable to the payment of any such tithes, tax, or rate; any law, statute, custom, or usage to the contrary in any wise notwithstanding

* * * * *

XVII. And whereas by virtue of an Act of parliament, ^{20 Geo. II. c. 49.} passed in the twentieth year of the reign of His present Majesty, intituled, "An Act to vest certain Messuages, Lands, Tenements, and Hereditaments in Trustees, for the better securing his Majesty's Dock, Ships, and Stores at Chatham," certain messuages, lands, tenements, and hereditaments, in the several parishes of Chatham and Saint Margaret, next the city of Rochester, in the county of Kent, have been purchased and taken possession of by the principal officers of His Majesty's Ordnance, pursuant to the directions in the said Act contained: And whereas the said messuages, lands, tenements, and hereditaments, in the said county of Kent, hereinbefore mentioned to have been purchased in pursuance of the said first above recited Act, passed in the twentieth year of the reign of His present Majesty, which are situate in the parishes of Milton next Gravesend, and Minster in the Isle of Sheppy, are now in the possession of the said principal officers of His Majesty's Ordnance: And whereas no provision was made in either of the said two recited Acts, passed in the twentieth year of the reign of His present Majesty, for the payment of the tithes, land tax, poor and other rates, with respect to the said messuages, lands, tenements, and hereditaments, in the said several parishes of Chatham, Saint Margaret next the city of Rochester, Milton next Gravesend, and Minster in the Isle of Sheppy, in the said county of Kent, purchased in pursuance thereof, whereby the rates fall heavy upon the parishioners: Be it therefore enacted, that the said several messuages, lands, tenements, and hereditaments, situate in the said several parishes of Chatham, Saint Margaret next the city of Rochester, Milton next Gravesend, and Minster in the Isle of Sheppy, in the said county of Kent, so purchased and taken possession of by the principal officers of His Majesty's Ordnance or Engineers, or other officers acting under their authority, for His Majesty's use, as aforesaid, which were, before the passing of the said two Acts respectively, made in the twentieth year of the reign of His present Majesty, liable to and charged with tithes, land tax, poor and other rates, within the respective parishes where such lands respectively lie, shall, from and after the passing of this Act, stand and be subject and liable to, and charged and chargeable with, the payment of tithes, land tax, poor and all other parish rates and taxes, according to the average rate at which the said lands have been heretofore assessed; and that the said lands and premises so to be charged and chargeable shall, as to so much thereof as shall not be otherwise de-

Lands, &c., in Chatham, &c., taken possession of for His Majesty's use, liable to tithes, &c., as heretofore.

Tithes, &c., paid by store- keeper of Ordnance.	mised to or occupied by any particular person or persons, stand and be charged to and in the name of, and paid by the store-keeper of His Majesty's Ordnance for the time being, at the place or places where such lands respectively lie ; and that such storekeeper paying the same shall be repaid and allowed such sum and sums of money as such storekeeper shall so pay, by the treasurer or paymaster of His Majesty's Ordnance for the time being, on demand thereof, who shall be allowed the same in his accounts ; and in case such storekeeper so charged and chargeable therewith shall neglect or refuse to pay any such tithes, taxes or rates to be made on him as aforesaid, when demanded, that then and in every such case, the sum or sums so due and claimed for such tithes, taxes, poor or other rates, and so to be assessed and charged on such storekeeper in respect of such lands and premises, shall and may be levied on such storekeeper, by such ways and means, and in such manner, as upon any other occupier of lands liable to the payment of any such tithes, taxes or rates ; any law, statute, custom or usage to the contrary in any wise notwithstanding.
Refusing.	
How levied.	

* * * * *

30 GEO. III. CHAP. 49.

AN ACT to empower Justices, and other Persons, to visit Parish Workhouses or Poor-houses, and examine and certify the State and Condition of the Poor therein to the Quarter Sessions (a).

Preamble.	WHEREAS the laws now in being for the regulating parish workhouses or poor-houses have been found in certain instances deficient and ineffectual, especially when the poor in such houses are afflicted with contagious or infectious diseases, in which cases particular attention to their lodging, diet, clothing, bedding and medicines, is requisite : Be it therefore enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the twenty-ninth day of
From Sept. 29, 1790, justices, &c. may visit workhouses,	September, one thousand seven hundred and ninety, it shall and may be lawful to and for any of His Majesty's justices of the peace, or any physician, surgeon or apothecary, for that purpose authorized by warrant under the hand and seal of any such justice or justices, or for the officiating clergyman of the parish or place, duly authorized as aforesaid, at all times, in

(a) See 4 & 5 Will. 4, c. 76, s. 43, *et seq.*

the day time, to visit any parish workhouse, or house kept or provided for the maintenance of the poor of any parish or place within the county, riding, liberty or division, wherein such justice or justices shall be resident, and shall have jurisdiction to examine into the state and condition of the poor people therein, and the food, clothing and bedding of such poor people, and the state and condition of such house or houses; and if upon any such visitation the said justice or justices, or persons duly authorized as aforesaid, shall find any cause or occasion of complaint, that then and in such case such justice or justices, or persons duly authorized as aforesaid shall, and they are hereby authorised and empowered, if he or they shall think fit, to certify the state and condition of such workhouse or poor-house, and the state of the poor therein, and of their food, clothing and bedding, to the next quarter sessions of the peace to be held for such county, riding, liberty or division, wherein such workhouse or poor-house shall be situate, under his or their hands and seals respectively; and such justice or justices, or other persons duly authorized as aforesaid, shall cause the overseers of the poor, or master or governor of the said workhouse or poor-house of such parish or place, to be summoned to appear at the same sessions, to answer such complaint; and the justices assembled at such quarter sessions, on hearing the parties on any such complaint, shall and may, and they are hereby authorised to make such orders and regulations for the removing of any cause of complaint contained in such certificate as aforesaid, as to them shall seem meet; and all the parties concerned shall, and they are hereby required to abide by and perform such orders and regulations as shall be so made by the justices at the said sessions.

and certify the state of the poor to the next quarter sessions, &c.

Justices at the quarter sessions to remove causes of complaint.

II. Provided always, that in case any justice or justices of the peace, or persons duly authorized by warrant as aforesaid, shall upon any such visitation, find any of the poor in any parish workhouse or poor-house afflicted with any contagious or infectious disease, or in want of immediate medical or other assistance, or of sufficient and proper food, or requiring separation or removal from the other poor in the said house, then and in such case or cases, if such visitation shall be made by a justice of the peace, it shall and may be lawful to and for such justice, and he is hereby directed and required to apply to one or more other justice or justices of the peace in the county, riding, liberty, or division, and certify to him or them the state and condition of the poor in such parish workhouse or poor-house; or if such visitation shall be made by the persons duly authorized as aforesaid, then and in such case or cases, it shall and may be lawful to and for such persons, and they are hereby directed and required to apply to two or more justices of the peace in such county, riding, liberty, or division; and thereupon the said justices shall and may, and they are

If in such visitation any of the poor should be found afflicted with contagious diseases, &c., application to be made to the justices of the division, who are to give order for immediate relief, &c.

Expenses of relief to be paid out of the poor rate.

hereby authorized to make such order for the immediate procuring medical or other assistance, or of sufficient and proper food, or for the separation or removal of such poor as shall be afflicted with any contagious or infectious disease, in such manner as they the said justices, under their hands and seals, shall think proper to direct, until the next quarter sessions of the peace to be held in and for the said county, riding, liberty, or division, wherein such workhouse or poor-house shall be situate (a); at which quarter sessions of the peace the said two justices are to certify the same, under their hands and seals respectively, to the justices assembled at such quarter sessions, who are hereby authorized and required to make such order for the further relief of the poor in such parish workhouse or poor-house, as to the justices assembled at such quarter sessions shall seem meet and proper; and the charges and expenses of relieving such poor shall be, and are hereby directed to be paid out of the poor rate of such parish, in such manner as the said justices assembled at such quarter sessions shall direct.

Not to extend to workhouses regulated by Act of parliament.

III. Provided always, that nothing herein contained shall extend, or be construed to extend, to any poor-house or workhouse in any district or districts which have been, or may be hereafter incorporated or regulated by any special Act or Acts of parliament.

(a) See 4 & 5 Will. 4, c. 76, s. 54.

32 GEO. III. CHAP. 57.

AN ACT for the further Regulation of Parish Apprentices (b).

Preamble.
43 Eliz. c. 2;

WHEREAS by an Act passed in the forty-third year of the reign of Queen Elizabeth, intituled "An Act for the Relief of the Poor," it is (amongst other things) enacted that it shall be lawful for the churchwardens and overseers of the poor of any parish, or the greater part of them, by the assent of two justices of the peace, to bind any children whose parents they shall judge to be not able to keep and maintain such children, to be apprentices where they shall see convenient, till such man-child should come to the age of twenty-four years, and such woman-child to the age of twenty-one years, or the time of her marriage, the same to be as effectual to all purposes as if such child were of full age, and by indenture of covenant

(b) See 43 Eliz. c. 2, s. 3; 8 & 9 Geo. 4, c. 32; 3 & 4 Will. 4, c. 63; Will. 3, c. 30, s. 5; 20 Geo. 2, c. 19, s. 3; 18 Geo. 3, c. 47; 32 Geo. 3, c. 57, s. 11; 51 Geo. 3, c. 80; 54 Geo. 3, c. 107; 56 Geo. 3, c. 139; 1 & 2 5 Vict. c. 7; 4 & 5 Will. 4, c. 76, ss. 15, 61, 67; 7 & 8 Vict. c. 101, ss. 12, 13; 14 & 15 Vict. c. 11; 17 & 18 Vict. c. 104, ss. 141—144.

bound him or herself: And whereas by an Act made in the eighth and ninth years of the reign of King William, intituled 8 & 9 Will. III. "An Act for supplying some Defects in the Laws for the Relief of the Poor of this Kingdom;" after reciting, that there being doubts whether the persons to whom such children were to be bound, under and by virtue of the said statute of the forty-third year of the reign of Queen Elizabeth, were compellable to receive such children as apprentices, that law had failed of its execution, it was therefore enacted, that where any poor children should be appointed to be bound apprentices pursuant to the said Act of Queen Elizabeth, the persons to whom they are so appointed to be bound apprentices, shall receive and provide for them according to the indenture signed and confirmed by the two justices of the peace, and also execute the other part of the said indentures under the penalty, in case of refusal, of the forfeiture of ten pounds for every such offence, to be levied of the goods of the offender in the manner mentioned in the said Act: And whereas by an Act passed in the eighteenth year of the reign of His present Majesty, intituled "An Act to amend such Part of an Act made in the forty-third Year of the Reign of Queen Elizabeth, intituled An Act for the Relief of the Poor, as relates to the Binding of Parish Apprentices," it was enacted, that when any man-child should be bound to be an apprentice by virtue of the said Act made in the forty-third year of the reign of Queen Elizabeth, such child shall be bound to be an apprentice for no longer term than till he shall come to the age of twenty-one years, and whereas in such indentures of apprenticeship, it hath been usual to insert several agreements and covenants to be done and performed by the several parties thereto; (that is to say,) an agreement on the part of the apprentice that he will faithfully serve his master during the term of such apprenticeship; and also several covenants on the part of the master for himself, his executors and administrators, that he the said master will teach, or cause to be taught, such apprentice in the business of husbandry, or in the craft, mystery, or occupation which such master then useth, as the case may be; and that such master shall also during the term of such apprenticeship, find and allow unto such apprentice sufficient meat, drink, apparel, lodging, and all other things needful for an apprentice during such term: And whereas in the event of the death of the master during the term of such apprenticeship, the agreement for service on the part of the apprentice is at an end, but the covenant for maintenance on the part of the master still continues in force, as far as the master's assets will extend, or doubts have arisen with respect thereto, and in consequence thereof such apprentices do frequently on the death of their master, leave their master's house, and after living in idleness, return again and become a burden on their master's effects, and so from time to time as they think proper, which is attended with great inconvenience and hardship to the family, and personal representatives of such

18 Geo. III.
c. 47, recited.

Covenants for maintenance of parish apprentices, with whom no more than 5*l.* shall be given, to continue in force no longer than three months after the death of the master, &c.

Proviso to that effect to be annexed to covenant, but if omitted, the covenant to continue no longer in force.

master, and is at the same time an inducement to such apprenticeship to continue in a disorderly and idle course of life : And whereas the several powers given to justices of the peace for the better ordering of parish apprentices, by the several Acts of parliament made for that purpose, do cease and determine on the death of the master, for which a remedy ought to be provided : And whereas several other regulations are necessary to be made respecting parish apprentices : Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the first day of July one thousand seven hundred and ninety-two, in case of the death of any master or mistress of any parish apprentice, during the term of such apprenticeship, upon the binding out of which apprentice no larger sum than five pounds has been or shall be paid, such covenant as is before mentioned for the maintenance of such apprentice, inserted in the indenture of apprenticeship by which such apprentice shall have been or shall be bound, shall not continue and be in force for and during any longer time than for three calendar months next after the death of such master or mistress, and that during such three calendar months, such apprentice shall continue to live with and serve as an apprentice, the executors and administrators of such master or mistress, some or one of them, or such person or persons as such executors or administrators, some or one of them shall appoint ; and the master or mistress whom such apprentice shall accordingly serve during the said three calendar months, and also such apprentice shall during that time be subject and liable to all the laws which are or shall be in force for the better government and regulation of masters and parish apprentices : And that in all such parish indentures of apprenticeship as aforesaid, which shall be made from and after the first day of July one thousand seven hundred and ninety-two, there shall be annexed to the covenant in such indentures to be entered into on the part of the master or mistress of such apprentice, for such maintenance as aforesaid, a proviso declaring that such covenant shall not be made to continue and be in force for any longer time than for three calendar months next after the death of such master or mistress, in case such master or mistress shall die during the term of such apprenticeship ; which proviso may be in the form, or to the effect mentioned in the Schedule hereunto annexed, marked with the letter A. ; and in case such proviso shall happen to be omitted in any such indenture, the covenant therein contained on the part of the master for the maintenance of the apprentice, shall be deemed and taken to continue and be in force for no longer time than for three calendar months next after the death of such master or mistress, in case such master or mistress shall die during the term of such apprenticeship ; anything in any such covenant to the contrary notwithstanding.

II. And whereas it is just and reasonable that such apprentice as aforesaid, in case of his master's death during his apprenticeship, should be obliged during the term of his apprenticeship to make some satisfaction by his labour to the family or representatives of his deceased master, for the advantages he has received from his apprenticeship in his childhood, when his services could not be equal to the expenses of his maintenance : Be it enacted, that within such three calendar months after the death of such master or mistress, it shall and may be lawful for any two justices of the peace of the county, city, town, riding, division, or place where such master or mistress shall have died, on application made to them by the widow of such master, or by the husband of such mistress, or by any son or daughter, brother or sister, or by any executor or executrix, administrator or administratrix, of such master or mistress, by indorsement on any such indenture of apprenticeship, or the counter part thereof, or by any other instrument in writing (which indorsement or instrument may be in the forms or to the effect mentioned in the Schedule hereunto annexed, marked with the letters B. and C.), to order and direct, that such apprentice shall serve as an apprentice any one of such persons so making such application as aforesaid (such person having lived with, and having been part of the family of such master or mistress, at the time of his or her death), as the said justices shall in their discretion think fit, for and during the residue of the term mentioned in such indenture of apprenticeship : and the person obtaining such order shall declare his acceptance of such apprentice, by subscribing his or her name to such order ; and that from and after such order shall be made, the executors and administrators, and the personal assets, estate, and effects, of the master or mistress so dying as aforesaid, shall be released and discharged of and from any promise or covenant whatsoever contained in any such indenture of apprenticeship, on the part of such master or mistress, his or her executors or administrators, to be done or performed ; and the person obtaining the same shall be and be deemed and taken to be the master or mistress of such apprentice, in like manner as if such apprentice had been originally bound to such master or mistress ; and that such last-mentioned master or mistress, his or her executors and administrators, each and every of them shall be held and bound by the several promises and covenants contained in any such indenture of apprenticeship on the part of the master or mistress therein named, his or her executors or administrators, to be done and performed in like manner as if such master or mistress obtaining such order as aforesaid, had duly executed the counterpart of such indenture ; and that such master or mistress and apprentice shall be subject and liable to the several penalties, provisions, and regulations which shall then be in force for the better government and good order of masters and parish apprentices ; and that all justices of the peace shall have the like powers and authority,

Within three months after the death of a master, two justices may order apprentices to serve the residue of their terms with persons of the description herein specified, on application, &c.

with respect thereto, as they shall then have by any Act or Acts of parliament relating to parish apprentices.

Provisions to take place on the death of the original master to extend to subsequent ones.

III. All and singular the regulations and provisions hereinbefore made and directed to take place on the death of the original master or mistress, shall be deemed and taken to relate to the like event of the death of any subsequent master or mistress, and to their several relations and representatives before enumerated, from time to time, as often as the case shall happen, during the continuance of the term mentioned in any such indenture of apprenticeship.

If no application be made, or the justices should not think fit that the apprenticeship should be continued, it shall be at an end.

IV. In case no such application shall be made as aforesaid within three calendar months next after the death of such master or mistress, or in case such two justices to whom any such application as aforesaid shall have been made, shall not think fit that such apprenticeship should be continued, then the said apprenticeship shall be determined, and the indenture of apprenticeship and covenants therein contained shall be at an end, in like manner as they would have been at the expiration of the term therein mentioned.

Act to extend to such parish apprentices only as shall be living with the master.

V. Provided always, that nothing hereinbefore contained shall extend, or be construed to extend to any parish apprentice, but to such only as shall be living with, and shall make part of the family, or shall be in the actual employment of such original master or mistress, or of any subsequent master or mistress appointed under, and by virtue of the several provisions of this Act, at the time of the death of any such masters or mistresses respectively.

Justices may order the necessary sums for maintenance and clothing of apprentices to be levied by distress.

VI. And whereas much difficulty and delay must necessarily happen in bringing an action upon the covenant for maintenance before mentioned contained in any such indenture of parish apprenticeship; Be it enacted that in case any such original master or mistress as aforesaid, or any master or mistress appointed under or by virtue of this Act, shall during the term of any such parish apprenticeship as aforesaid, or if the executors or administrators of such masters or mistresses, any or either of them having assets, shall, during such three calendar months aforesaid, refuse or neglect to maintain and provide for any such apprentice, according to the terms of such covenant, it shall and may be lawful for any two justices of the peace of the county, city, town, riding, division, or place in which the parish or place shall lie, to which such apprentice shall belong, on complaint of such apprentice, or of the churchwardens and overseers of the poor of such parish or place, by warrant under their hands and seals, to levy, by distress and sale of the personal estate and effects or assets of such master or mistress respectively, such sum or sums of money as shall be necessary for

the maintenance and clothing of such apprentice, and as shall also be necessary to reimburse to the churchwardens and overseers of the poor of such parish or place, any sum or sums of money that shall have been reasonably expended by them for that purpose.

VII. And whereas it frequently happens that persons are compellable, under and by virtue of the said Act of the ninth and tenth years of King William, to take a greater number of parish apprentices than it is convenient for them to maintain or employ in their own families, and they are therefore forced to place out or assign over such apprentices to other persons; and it is proper that such assignment should be legally made, under the inspection and control of the magistrates, as well for the benefit of the apprentice, as that the original master may be discharged from his covenants in respect of such apprentice; and it is fit that the person to whom such assignment shall be made, and also the apprentice should be made subject to the ordinary jurisdiction of justices of the peace with respect to masters and parish apprentices: Be it enacted, that it shall and may be lawful for any master or mistress of any such parish apprentice as aforesaid, by indorsement on the indenture of apprenticeship, or by other instrument in writing, by and with the consent of two justices of the peace of the county, city, town, riding, division, or place where such master or mistress shall dwell, testified by such justices under their hands, to assign such apprentice to any person who is willing to take such apprentice for the residue of the term mentioned in such indenture of apprenticeship: Provided always, that such person to whom such apprentice is intended to be assigned, shall at the same time, by indorsement on the counterpart of such indenture, or by writing under his or her hand, stating the said indenture of apprenticeship, and the indorsement and consent aforesaid, declare his or her acceptance of such apprentice, and acknowledge himself, herself, his or her executors and administrators, to be bound by the agreements and covenants mentioned in the said indenture, on the part of the master or mistress of such apprentice to be done and performed; which indorsement or instrument may be in the forms or to the effect mentioned in the Schedule hereunto annexed, marked with the letters D. and E.; and in such case such apprentice shall be deemed and taken to be the apprentice of such subsequent master or mistress to whom such assignment shall be made, to all intents and purposes whatsoever, and so from time to time, as often as it shall be necessary or convenient for any such subsequent master or mistress to part with any such apprentice; and all justices of the peace shall have the like power and authority, in the several cases last mentioned, with respect as well to the subsequent master or mistress, masters or mistresses, as to the apprentice, as such justices shall then have by any law for the better regulation of parish apprentices.

Masters may assign over apprentices with the consent of two justices, &c.

Justices may discharge apprentices whose masters cannot employ or maintain them.

VIII. And whereas no express provision has been made for the discharging of any such parish apprentice from a master or mistress who is become insolvent, or is so far reduced in his or her circumstances as to be unable to employ or maintain such apprentice: Be it enacted, that it shall and may be lawful for two justices of the peace of the county, city, town, riding, division, or place where any such master or mistress shall live, on the application of such master or mistress requesting that any such apprentice may be discharged, for the reasons aforesaid, to enquire into the matter of such allegations, and to discharge any such apprentice from his apprenticeship, in case the said two justices shall find such allegations to be true (a).

Not to extend to apprentices with whom more than 5*l.* shall be given.

IX. Provided always, that nothing hereinbefore contained shall extend, or be construed to extend, to the indenture made on the binding of any apprentice, by the churchwardens or overseers of the poor of any parish or place, or the major part of them, under and by virtue of the powers given to them by the statute made in the forty-third year of the reign of Queen Elizabeth, in the case of any such binding, where a larger sum than five pounds shall be given, but that such binding shall be subject and liable to the like rules and regulations as they would have been subject and liable to in case this Act had not been made.

* * * * *

20 Geo. II. c. 19, recited.

XI. And whereas by an Act passed in the twentieth year of the reign of King George the Second, intituled, "An Act for

(a) See 56 Geo. 3, c. 139, s. 9; and 32 & 33 Vict. c. 71, s. 33.

ASSIGNMENT OF APPRENTICE.

Decisions on sect. 7.

If the master of an apprentice die, and the executor, at the apprentice's request, agree that he shall go to live with another person, a service of forty days with such person before the term expires gains a settlement: *Rex v. Stockland*, Cald. 60; Doug. 70.

Supposing an infant binding himself apprentice may avoid the indentures at his election, yet his leaving his master's service, and going into the King's service with his master's consent, is not such an avoidance: *Rex v. Hendringham*, 6 T. R. 557.

A parish apprentice, who was living at the time of his mistress's death with her appointee, under the provisions of 32 Geo. 3, c. 57, though living with her son by her individual consent, could not gain a settlement in another parish by serving another mistress with the consent of the son and assignee of the original mistress, given after her death: *Rex v. Sheepshead*, 15 East, 59.

The master of a parish apprentice must give his express authority for the assignment, and without such there is no settlement under the assignment: *Rex v. Spreyton*, 3 B. & Ad. 818.

An assignment of a parish apprentice is not subject to the regulations imposed by 8 Anne, c. 9, and need not therefore be stamped within two months, nor need the consideration be stated: *Rex v. Ide*, 2 B. & Ad. 866.

the better adjusting and more easy recovery of the Wages of certain Servants, and for the better Regulation of such Servants, and of certain Apprentices," it is enacted, that it shall and may be lawful to and for any two or more justices, upon any complaint or application by any apprentice put out by the parish, touching or concerning any misusage, refusal of necessary provisions, cruelty, or other ill-treatment, of or towards such apprentice, by his or her master or mistress, and due proof thereof, to discharge such apprentice from his or her apprenticeship: And whereas instances of such ill-treatment frequently occur, and it is fit that the expectation of such discharge should not operate as an inducement to such ill-treatment: Be it enacted, that in every case where any parish apprentice whatsoever shall be discharged from his apprenticeship by two justices, under and by virtue of the said last-mentioned Act, it shall and may be lawful for such two justices to order such master or mistress to deliver up to such apprentice his or her clothes and wearing apparel, and also to pay to such churchwardens or overseers of the poor of the parish or place to which such apprentice shall belong, some or one of them, a sum not exceeding ten pounds, to be applied by them, some or one of them, under the order of such justices, for the again placing and binding out such apprentice so discharged as aforesaid, or otherwise, for his or her benefit, as to such justices shall seem meet; and also to pay a sum not exceeding five pounds, in case such master or mistress shall refuse to deliver up such clothes and wearing apparel; and in case such master or mistress shall refuse to pay the sum so ordered by the said justices to be paid as aforesaid, or either of them, or any part thereof, it shall and may be lawful for such two justices, by warrant under their hands and seals, to levy the same by distress and sale of the goods and chattels of such master or mistress, together with the reasonable expenses of such distress (b): And also that it shall and may be lawful for such two justices, if they shall so think fit, to compel such churchwardens and overseers of the poor, some or one of them, to enter into a recognizance for the effectual prosecution by indictment of such master or mistress for such ill-treatment of any such apprentice so discharged as aforesaid, and also to order that the costs and expenses of such prosecution shall be paid and discharged, or reimbursed to such person or persons entering into such recognizance as aforesaid, one moiety thereof out of the poor rates of the parish or place to which such apprentice shall belong; and the other moiety thereof out of the common stock of the county in which such parish or place shall lie (c); and in case the churchwardens and overseers of the poor of such parish or place for the time being shall refuse to pay such their moiety as aforesaid, it shall and may be lawful for such two justices, by warrant under their hands and seals, to levy the same by distress and sale of the goods and chattels of

Justices discharging any apprentice under the last-recited Act, may order his clothes to be delivered up, and a sum not exceeding 10*l.* to be paid the parish officers for placing him out again, &c.,

and may compel the parish officers to enter into recognizance to prosecute masters for ill-treatment of apprentices, &c.

(b) See 56 Geo. 3, c. 139, s. 9.

(c) 14 Vict. c. 11.

such churchwardens and overseers of the poor, any or either of them, together with the reasonable expenses of such distress.

XII. And whereas it is not expedient that such master or mistress should be again intrusted with the care of another parish apprentice: Be it enacted, that in every case where any parish apprentice shall have been so discharged from any master or mistress as aforesaid under and by virtue of the said last-mentioned Act; and such master and mistress shall have been convicted of such offence, in consequence of such prosecution by indictment as aforesaid, or shall have been found guilty thereof in any action brought at the suit of the party injured, it shall not be lawful for the churchwardens and overseers of the poor of any parish or place, or the major part of them, to bind any other apprentice upon such person; * * * * (a) Provided always, that it shall and may be lawful for such master or mistress as aforesaid, from whom any parish apprentice shall be discharged under and by virtue of the Act, made in the twentieth year of the reign of King George the Second, to appeal against the order made for such discharge as aforesaid, and also against any such order made for his or her payment of any such sum or sums of money in consequence thereof as aforesaid, * * * * (a) under and by virtue of the provisions of this Act, to the next general quarter sessions of the peace of the county, city, riding, division, or place where such orders, any or either of them, shall be made, and upon such appeal the said court of general quarter sessions shall finally determine the same, and in their discretion allow to all parties their reasonable costs; and no such distress for enforcing the payment of any such sum or sums of money as are last mentioned, shall be taken until after the general quarter sessions of the peace to be holden next after any such order as aforesaid shall be made, in case the person who is ordered to pay the same shall, within seven days after notice given to him or her of such order being made, give notice to such churchwardens and overseers of the poor, some or one of them, of such intended appeal; and in case such person shall fail to appear in support of his appeal at such general quarter sessions, then the sum of forty shillings shall be added to the expenses of the distress before directed to be taken, and levied accordingly.

Justices may order any master convicted under 20 Geo. II. c. 19, when liable to take apprentice, to pay parish officers money for binding out child, &c.

Appeal for masters.

On notice of such appeal, no distress till after quarter sessions.

Penalty.

XIII. And whereas by the said last-mentioned Act it is also enacted that it shall and may be lawful to and for two justices, upon application or complaint made upon oath by any master or mistress against any parish apprentice, touching or concerning any misdemeanor, miscarriage, or ill-behaviour of such apprentice, to hear and determine the same, and punish the offender in such manner as is therein mentioned, or otherwise to discharge such apprentice from his apprenticeship, and it is expedient to prevent the expectation of such discharge

being an inducement to such ill-behaviour on the part of the apprentice: Be it enacted, that in all cases where any parish apprentice shall be discharged by two justices under and by virtue of the said last-mentioned Act, from his or her apprenticeship, on account of any misdemeanor, miscarriage, or ill-behaviour on the part of such apprentice, that it shall and may be lawful for such two justices, if they think proper, by warrant under their hands and seals, to punish such offender by commitment to the house of correction, there to remain and be corrected and kept to hard labour for a reasonable time, not exceeding three calendar months, as to such justices shall seem meet.

Apprentices discharged for ill-behaviour may be sent to the house of correction.

XIV. If any person shall be aggrieved by any matter or thing done, or omitted to be done, by any churchwarden or overseer of the poor, or by any of His Majesty's justices of the peace, or by any other person or persons whomsoever, under and by virtue of this Act, besides such matters or things for which an appeal is hereinbefore specially given, it shall and may be lawful for such person or persons to appeal to the next general quarter sessions of the peace, where the same shall be heard and finally determined; and such court may award reasonable costs and expenses to either party before them.

Parties aggrieved may appeal to the quarter sessions.

* * * * *

(b) The forms in the Schedules which follow are now inapplicable, and are therefore omitted.

33 GEO. III. CHAP. 55.

AN ACT to authorize Justices of the Peace to impose Fines upon Constables, Overseers, and other Peace or Parish Officers, for Neglect of Duty, and on Masters of Apprentices for Ill-usage of such their Apprentices; and also to make Provision for the Execution of Warrants of Distress granted by Magistrates.

[21st June, 1793.]

WHEREAS it is expedient to give further powers to justices of the peace to impose fines upon overseers of the poor, constables, and other peace and parish officers within their respective jurisdictions for neglect of duty in such their respective offices, or for disobedience of the warrants or orders of such justices; and it is also expedient to empower justices to impose fines upon masters of apprentices for ill-usage of such their apprentices, and also to make provision for the execution of warrants of distress granted by magistrates: May it therefore

Justices may impose fines upon constables, &c. for neglect of duty, and on masters for ill-usage of apprentices.

Application of fines.

Persons aggrieved may appeal to the quarter sessions.

please your Majesty that it may be enacted, and be it enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that it shall and may be lawful for any two or more of His Majesty's justices of the peace, assembled at any special or petty sessions of the peace, upon complaint being made upon oath before them of any neglect of duty (*a*) or of any disobedience of any lawful warrant or order of any justice or justices of the peace by any constable, overseer of the poor, or other peace or parish officer (*b*), or upon complaint made to such two or more justices upon oath, by or on behalf of any apprentice to any trade or business whatsoever, whether bound apprentice by any parish or township or otherwise, provided that not more than the sum of ten pounds (*c*) be paid upon the binding of such apprentice, against his or her master or mistress of any ill-usage of such apprentice by such master or mistress (such constable, overseer, or other officer, master or mistress, having been duly summoned to appear and answer such charge or complaint), to impose, upon conviction, any reasonable fine or fines not exceeding the sum of forty shillings upon such constable, overseer, or other officer, master or mistress respectively, as a punishment for such disobedience, neglect of duty, or ill-usage (*d*), and by warrant under the hands and seals of any two or more of such justices assembled, at any such special or petty sessions as aforesaid, to direct such fine or fines, if not paid, to be levied by distress and sale of the goods and chattels of the person or persons so offending, rendering the overplus (if any), after deducting the amount of such fine or fines, and the charges of such distress and sale, to such offender or offenders (*e*); and such fine or fines which may be imposed upon any such constable, overseer, or other officer as aforesaid, shall be applied and disposed of for the relief of the poor of the parish, township, or place where the offenders shall respectively reside, at the discretion of the justices imposing the same, and such fine or fines, which may be imposed upon any such master or mistress, shall, at the discretion of the justices imposing the same, be either so applied and disposed of as aforesaid, or be otherwise paid and applied to or for the use and benefit of such apprentice, for or towards a recompense or compensation for the injury which may have been by him or her sustained by reason of such ill-usage as aforesaid; and if any person shall be aggrieved by the imposition of such fine or fines as aforesaid, or by any order or warrant of distress for raising and levying the same, or by the judgment or determination of the said justices, or by any act to be done in the execution of such

(*a*) See 17 Geo. 2, c. 38, s. 14; and 4 & 5 Will. 4, c. 76, s. 95.

(*b*) See 43 Eliz. c. 2, s. 1; 17 Geo. 2, c. 38, s. 14; 5 Geo. 4, c. 83, s. 12.

(*c*) See 4 Geo. 4, c. 29, s. 1.

(*d*) See 20 Geo. 2, c. 19, s. 3; 4 Geo. 4, c. 29, s. 1; 4 Geo. 4, c. 34, s. 1; and 5 Vict. c. 7.

(*e*) See 4 Geo. 4, c. 29.

warrant of distress, such person or persons so aggrieved shall and may appeal to the next general or quarter sessions of the peace to be held for the county, riding, or division, within which such person shall reside, of which appeal ten days' notice at the least shall be given; and for want of such distress such person or persons shall be committed to the house of correction for any space of time not exceeding ten days.

For want of distress, offenders may be committed.

II. Provided always, that no person acting under any such warrant of distress as aforesaid, shall be deemed a trespasser *ab initio*, by reason of any irregularity or informality in such warrant or in any proceedings thereon, but any person aggrieved by the issuing or execution of such warrant may recover the special damages thereby by him or her sustained, in an action of trespass, or on the case, in any of His Majesty's courts of record.

No persons to be deemed trespassers on account of irregularity in proceedings, &c.

* * * * *

35 GEO. III. CHAP. 101.

AN ACT to prevent the Removal of Poor Persons until they shall become actually chargeable (a).

[22nd June, 1795.]

WHEREAS by an Act, passed in the thirteenth and fourteenth years of the reign of King Charles the Second, intituled, "An Act for the better Relief of the Poor of this Kingdom," reciting, that whereas, by reason of some defects in the law, poor people are not restrained from going from one parish to another, and therefore do endeavour to settle themselves in those parishes where there is the best stock, the largest commons or wastes to build cottages, and the most woods for them to burn and destroy; and when they have consumed it then to another parish, and at last become rogues and vagabonds, to the great discouragement of parishes to provide stocks where it is liable to be devoured by strangers: For remedy whereof it is thereby, amongst other things, enacted, that it shall and may be lawful, upon complaint made by the churchwardens or overseers of the poor of any parish to any justice of the peace, within forty days after any such person or persons coming so to settle as aforesaid, in any tenement under the yearly value of ten pounds, for any two justices of the peace, whereof one to be of the quorum, of the division where any person or persons that are

Preamble.
13 & 14 Car.
II. c. 12, re-
cited.

(a) See 49 Geo. 3, c. 124.

likely to be chargeable to the parish shall come to inhabit, by their warrant, to remove and convey such person or persons to such parish where he or they were last legally settled, either as a native, householder, sojourner, apprentice, or servant, for the space of forty days at the least, unless he or they give sufficient security for the discharge of the said parish, to be allowed by the said justices: And whereas many industrious poor persons, chargeable to the parish, township, or place where they live, merely from want of work there, would in any other place, where sufficient employment is to be had, maintain themselves and families without being burdensome to any parish, township, or place; and such poor persons are for the most part compelled to live in their own parishes, townships, or places, and are not permitted to inhabit elsewhere, under pretence that they are likely to become chargeable to the parish, township, or place into which they go for the purpose of getting employment, although the labour of such poor persons might, in many instances, be very beneficial to such parish, township, or place: And whereas the remedy intended to be applied thereto, by the granting of certificates, in pursuance of the Act passed in the eighth and ninth years of the reign of King William the Third, intituled, "An Act for supplying some Defects in the Laws for the Relief of the Poor of this Kingdom," hath been found very ineffectual, and it is necessary that other provisions should be made relating thereto (a): Be it therefore enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this Act, so much of the said in part recited Act of the thirteenth and fourteenth years of King Charles the Second, as enables the justices to remove any person or persons that are likely to be chargeable to the parish, township, or place into which they shall come to inhabit, shall be and the same is hereby repealed; and that from thenceforth no poor person shall be removed, by virtue of any order of removal, from the parish or place where such poor person shall be inhabiting to the place of his or her last legal settlement, until such person shall have become actually chargeable to the parish, township, or place in which such person shall then inhabit, in which case two justices of the peace are hereby empowered to remove the person or persons in the same manner, and subject to the same appeal (b), and with the same powers, as might have been done before the passing of this Act with respect to persons likely to become chargeable (c).

So much of recited Act as enables justices to remove persons likely to be chargeable to parishes, repealed; and no persons to be removed till they become chargeable.

(a) See 8 & 9 Will. 3, c. 30; 9 & 10 Will. 3, c. 11; 12 Anne, c. 18; (b) See 14 Car. 2, c. 14, s. 2. (c) See 14 Car. 2, c. 14, s. 1. 3 Geo. 2, c. 29.

POOR REMOVAL—ORDER UNAPPEALED FROM.

*Decisions on
sect. 1.*

An order of removal, thought to a wrong place, is conclusive, if unappealed from: *Spitalfields v. Bromley*, 18 Vin. Abr. 468.

POOR REMOVAL—ORDER UNAPPEALED FROM—*continued.*

An order of removal unappealed against is conclusive as to the fact of *Decisions on* marriage, and even so as to after-born children: *Rex v. Woodchester*, Burr. *sect. 1.* S. C. 191; 2 Str. 1172.

An order of removal unappealed from is final, unless some subsequent settlement appears: *Rex v. Leverington*, Burr. S. C. 276.

An order of removal deserted by the parish in whose favour it was made, by their agreeing to take the pauper back, was not, on being unappealed from, conclusive on the parish to which the pauper was removed: *Rex v. Llanrhydd*, Burr. S. C. 658.

An order of removal to a parish consisting of several townships was binding on the township to which it was delivered, if not appealed from: *Rex v. Kirkby Stephen*, Burr. S. C. 664.

An order removing a woman as the wife of A. is, if unappealed from, conclusive against the parish as to the settlement of A.; for by calling her his wife it imports that the removal was to his settlement: *Rex v. Hinxworth*, Cald. 42; Doug. 464.

An order removing a wife, if unappealed from, is conclusive as to the husband's settlement, although he be not in fact settled in the parish: *Rex v. Towcester*, Bott; Cald. 497.

The first order of removal not appealed against is conclusive: *Rex v. North Featherstone*, 1 Sess. Ca. 154.

An order of removal not appealed against is final, and so if confirmed on appeal: *Malendine v. Hunsdon*, Foley, 273.

An order unappealed from is only conclusive to those who are mentioned in it; so that if only the father and mother are removed thereby, the question as to the settlement of their children is still open: *Rex v. Southowram*, 1 T. R. 353.

After an order of removal unappealed from, a new settlement can only be gained by some act altogether subsequent to the removal: *Rex v. Kenilworth*, 2 T. R. 598.

Where a person renting and residing on a tenement of 10*l.* a year in A., was removed to B. by an order, and afterwards returned to the same tenement without making any new contract, and resided there more than 40 days, he thereby gained a settlement though the order was unappealed from, for the contract was not thereby dissolved: *Rex v. Fillongley*, 2 T. R. 709.

An order unappealed from is conclusive, not only on the persons removed but also as to all derivative settlements under them: *Rex v. St. Mary, Lambeth*, 6 T. R. 615.

An order of removal, though unappealed from, is not conclusive, if it do not distinctly appear upon the face of it that the justices had jurisdiction: *Rex v. Chilvers Coton*, 8 T. R. 178.

If a *femme covert* be removed by an order from A. to B., describing her as "widow" and there be no appeal, it is conclusive not only as to her settlement, but as to that of her husband also: *Rex v. Rudgeley*, 8 T. R. 620.

An order of removal of J. S. and B. his wife, upon the examination of the wife, adjudged that they lately came into the parish of K., and are likely to become chargeable to it, and were last legally settled in M., is good upon the face of it, and conclusive upon the parish of M. as to the marriage and settlement of the husband and wife, so that upon subsequent removal of the wife, describing her as B. S. single woman, from M. to B., M. cannot show in evidence that the marriage was nul and void: *Rex v. Bineger*, 7 East, 377.

An order of removal executed and unappealed from, is conclusive as to

POOR REMOVAL—ORDER UNAPPEALED FROM—*continued.*

*Decisions on
sect. 1.*
—

the settlement of the pauper at the time of such order, even as between third parishes, no parties to the former order: *Rex v. Corsham*, 11 East, 388.

A parish might by consent abandon an order of removal without waiting to appeal; and if afterwards an order of removal was made to a different parish, it was a good order: *Rex v. Diddlebury*, 12 East, 359.

An order of removal of a father confirmed, is conclusive as to the settlement of the son, although not named in the order, and he be emancipated at the time of making it, if he have not acquired a settlement in his own right: *Rex v. Catterall*, 6 M. & S. 83.

Where an order of removal proceeds upon the ground that a former order was made between the same parishes, and unappealed against, the former order should be produced or accounted for upon the taking of the examinations: *Reg. v. Mildenhall*, 11 L. J. M. C. 107; 2 G. & D. 86; 2 Q. B. 517.

An order for the removal of the father, when unappealed against, is conclusive evidence of the settlement of the son: *Reg. v. Brightelmstone*, 7 Q. B. 549; 9 J. P. 599.

An order of removal unappealed against or confirmed on appeal, is conclusive, not only as to the facts thereby directly decided, but as to those facts also that are mentioned in the order, and are necessary steps to the decision of the settlement: *Reg. v. Harlington, Middle Quarter*, 24 L. J. M. C. 98; 1 Jur. (N. S.) 586; 6 E. & B. 780; 24 L. T. 327; 19 J. P. 150.

POOR REMOVAL—ORDER APPEALED AGAINST.

An order of removal quashed is final between the parties: *Rex v. Leigh*, Cald. 59.

A good order, though quashed at the sessions, is conclusive: *Mungerhunger v. Warden*, Sett. & Rem. 160.

An order of removal reversed is final as between the parties; but if it be confirmed, it is final as to all the world: *Little Bitham v. Somerby*, Str. 232.

After an order of removal is quashed, the pauper cannot be removed a second time without stating a new settlement: *Foston v. Carleton*, Str. 567.

If an order of sessions was discharged, yet the pauper might be removed from a third parish to the appellant parish, for it was only conclusive as between the contending parishes: *Cirencester v. Coln St. Aldwins*, Burr. S. C. 17.

An appeal allowed on account of the respondent not producing the order, does not preclude the respondent from a subsequent removal to the appellant parish: *Rex v. Sarratt*, Burr. S. C. 73.

An order of removal discharged does not prevent a third parish from showing a settlement in the same parish, gained subsequent to that in question when the order was discharged, though prior to the sessions in which the order was discharged: *Rex v. Bentley*, Burr. S. C. 425.

If a pauper be removed from A. to B., and on appeal the order be discharged, yet A. may remove to B. if the pauper afterwards gain a settlement in that parish: *Rex v. Bradenham*, Burr. S. C. 394.

An order of removal quashed for want of form, was not conclusive between the contending parishes: *Rex v. Bishop's Waltham*, Foley, 275.

If a pauper be removed from A. to B., and B. neglect to appeal, he cannot at the distance of four years be removed from a third parish to the parish of B., unless it appears that he had not gained a new settlement: *Thackham v. Findon*, Salk. 489.

POOR REMOVAL—ORDER APPEALED AGAINST—*continued.*

The parish against which an appeal was determined was not thereby *Decisions on* estopped from sending the pauper to a third parish: *Harrow v. Ryslip*, *sect. 1.* Salk. 524.

Two justices, on an order of removal being reversed, may remove the pauper back to the respondent parish: *Honiton v. South Beverton*, Comb. 401.

If a pauper be settled upon appeal at A., and he be removed thence by a subsequent order, it must appear that he had gained another settlement: *Alderton v. Felington*, Bott.

An order of removal quashed for want of form, is not conclusive on the parties: *Rex v. St. Andrew, Holborn*, 6 T. R. 613.

The confirmation of an order of removal was held not conclusive proof of a derivative settlement, after a decree of the spiritual court setting an alleged marriage aside, as it might be shown that since the first order the marriage had become void *ab initio*, and the pauper illegitimate: *Rex v. Wye*, 3 Nev. & P. 6; 7 A. & E. 761.

When the sessions on appeal have quashed an order of removal generally, the court will not compel them by *mandamus* to enter their reasons on the order to quash, though it appear by affidavit that the justices in sessions made their order on the ground of informality, but refused a special entry for the purpose of preventing a second removal: *Reg. v. Lancashire JJ.*, 3 Q. B. 367; 12 L. J. M. C. 76; 7 J. P. 626.

A ground of appeal stated a subsequent settlement in a third township, E., by renting a tenement; but the notice of grounds stating no residence in E., the sessions confirmed the order. Afterwards the pauper was removed from M. to E., on the same ground of settlement properly stated. E. appealed, stating as a ground the confirmation of the former order. This was conclusive against M.: *Reg. v. Evenwood*, 3 Q. B. 370; 12 L. J. M. C. 101; 7 J. P. 626.

An order was quashed because the examinations did not give the date of the birth of the pauper's husband. On a second appeal the sessions quashed the second order, subject to a case, which stated that the first order was quashed because the sessions on the first appeal thought the omission material. The court confirmed the second order of sessions, no ground being shown on which their finding as to the view taken by the sessions on the first appeal could be treated as incorrect: *Reg. v. Charlbury*, 3 Q. B. 378; 13 L. J. M. C. 19.

The sessions are not bound to quash an order of removal absolutely on the merits: *Reg. v. Kingsclere*, 3 Q. B. 388; 13 L. J. M. C. 22; 8 J. P. 72.

On the hearing of an appeal it appeared that a former order of removal had been quashed, because the examinations did not show chargeability. A new examination did show it, and the sessions being of opinion that the omission in the former order went to the merits, quashed the new order generally: the court held that the sessions might inquire into the ground of the former order to quash; that the first order had been quashed on the merits as then existing, but that no decision had then taken place on the question of settlement: *Reg. v. Perranzabuloe*, 3 Q. B. 400; 13 L. J. M. C. 47.

An order of removal being quashed for defect in the copy of it sent with the notice of chargeability, does not prevent the respondents removing again by a fresh order: *Reg. v. Great Bolton*, 7 Q. B. 387; 14 L. J. M. C. 122; 9 J. P. 536.

An order of removal decided by the sessions, is conclusive between the parties on the point of settlement: *Reg. v. St. Mary, Lambeth*; *Reg. v. Ellet*, 14 L. J. M. C. 126; 7 Q. B. 587, 593; 9 J. P. 44.

An order quashed with a special entry, and without prejudice, &c., will

POOR LAW REMOVAL—ORDER APPEALED AGAINST—*continued.*

*Decisions on
sect. 1.*

prevent an estoppel as between the parishes: *Reg. v. St. Anne, Westminster*, 16 L. J. M. C. 41; 9 Q. B. 878; 11 J. P. 183.

Parol evidence is admissible to explain an entry in the minute book of the justices, and to show that an order was quashed on the merits: *Reg. v. Widdecombe-in-the-Moor*, 16 L. J. M. C. 44.

If the justices decide an appeal on a question of fact, their decision is final: *Reg. v. Flintshire JJ.*, 16 L. J. M. C. 55; 11 J. P. 103.

Evidence may be admitted to show that a former order had not been quashed on the merits, so as to make it conclusive as to the settlement: *Reg. v. Landkey*, 16 L. J. M. C. 81; 9 Q. B. 905; 11 J. P. 440.

It is not an indictable offence to remove again after a case has been granted, but not decided: *Reg. v. Cooper*, 18 L. J. M. C. 16; 12 J. P. 803.

Where sessions make a special entry, "order confirmed not on the merits, no due notice having been given," it is not conclusive as to the settlement: *Reg. v. Macclesfield*, 19 L. J. M. C. 38; 13 Q. B. 881; 13 J. P. 635.

POOR REMOVAL—ORDER QUASHED.

The sessions may affirm or quash an order of removal, but not supersede or make a new one: *Rex v. Oswell*, Salk. 472.

An order of removal reversed on appeal did not bind a third parish not party to it: *St. Michael Bedenham v. Kingston-Bowsey*, Carth. 516; Salk. 486.

A parish upon which an original order of removal had been made, could not remove to another parish till that order was reversed: *Chalbury v. Chipping Farringdon*, Salk. 488.

The sessions in quashing an order of removal need not set forth the reasons of their judgment: *South Cadbury v. Braddon*, Salk. 607.

An order for the removal of a wife and her children to the place of her husband's settlement was quashed, as to the children; 1, for not stating them to be the children of the husband; 2, for not setting out their ages and adjudging their settlement: *Rex v. Normanton*, Burr. S. C. 213.

An order for the removal of a widow, upon the examination of her deceased husband, was quashed for want of an adjudication: *Rex v. Great Bedwin*, Burr. S. C. 584.

Where an order of removal is appealed against and is quashed generally, the appellant, on the trial of another appeal, may show by evidence the distinct ground upon which the former order was quashed: *Rex v. Wheelock*, 5 B. & C. 511.

An order of sessions quashing an order of removal generally, is conclusive evidence between the parties to the appeal, that when the order was made the appellant parish was not bound to receive the pauper; but it is only *prima facie* evidence that the pauper was not settled in that parish: *Rex v. Wick, St. Lawrence*, 5 B. & Ad. 526.

An order of removal, quashed generally by consent, is conclusive as to the settlement: *Rex v. Church Knowle*, 7 A. & E. 471.

An order of removal, quashed on account of wrong dates as to settlement relied upon, is conclusive nevertheless: *Reg. v. Clint*, 10 L. J. M. C. 151; 11 A. & E. 624.

It is no ground for quashing an order of removal that it removes a mother and son having settlements independent of each other: *Reg. v. All Saints, Newcastle-upon-Tyne*, 10 L. J. M. C. 89; 1 Q. B. 428.

Where the sessions quash an order of removal "not on the merits," the court will not issue a *mandamus* to erase the record, although the

POOR REMOVAL—ORDER QUASHED—*continued.*

order be quashed on an objection which goes to the merits: *Reg. v. Ackworth*, 13 L. J. M. C. 38; 3 Q. B. 397; 8 J. P. 261. *Decisions on sect. 1.*

Where the quashing of a first order was not conclusive between the parties, it was held that the respondents were not precluded from obtaining a fresh order, by the fact that they had applied for and obtained liberty to state a case for the opinion of the court upon the decision of the sessions upon the first order: *Reg. v. Great Bolton*, 14 L. J. M. C. 122; 7 Q. B. 387.

Where the sessions quashed an order at the request of the respondents, with a special entry "for want of proof of chargeability in the examinations," the court refused a *mandamus* on the application of the appellants to hear the appeal: *Reg. v. Wellingborough*, 15 L. J. M. C. 20; 8 Q. B. 123; 10 J. P. 40.

A prior order of removal, quashed upon the question of settlement, is conclusive, whether the subsequent inquiry be for the adjudication of the settlement and maintenance of a lunatic (under 8 & 9 Vict. c. 126, s. 58), or an ordinary case of removal: *Heston v. St. Bride*, 22 L. J. M. C. 65; 17 J. P. 408.

POOR REMOVAL—RELIEF—EVIDENCE OF SETTLEMENT.

Relief given to a pauper while he is residing out of the relieving parish, is *primâ facie* evidence of a settlement in that parish; and evidence of one instance in which relief was so given, was held to be sufficient warrant to finding that the pauper was settled in the relieving parish, though upon a second application relief had been refused: *Rex v. Edwinstone*, 8 B. & C. 671.

Relief given to a pauper not residing in the relieving parish, is *primâ facie* evidence of his being settled there; but the sessions are not bound thereby: *Rex v. Yarwell*, 9 B. & C. 894.

Relief given by a parish to a family resident in it, is no evidence of settlement, though the relief be continued for a long period, and though one of the family be put out apprentice by the parish: *Rex v. Coleorton*, 1 B. & Ad. 25.

Appellants under a ground of appeal that they had relieved the pauper, are at liberty to show that they had given the relief under a mistake as to settlement: *Reg. v. Bedingham*, 13 L. J. M. C. 75; 5 Q. B. 653; 8 J. P. 660.

A pauper chargeable to A., was placed by the overseers at an establishment of a contractor in B., and there maintained at the charges of A. Held, that this could not be considered as relief by A. out of the parish, and therefore, however long continued, it was not an admission of settlement in A.: *Reg. v. St. Giles-in-the-Fields*, 13 L. J. M. C. 89; 5 Q. B. 872; 8 J. P. 692.

Where the relieving officer of a union, including the parishes of M. and W., stated that he had for three years relieved the paupers while resident in M., and charged the relief to the parish of W., this was not *primâ facie* evidence of relief given by W.: *Reg. v. Little Marlow*, 16 L. J. M. C. 70; 10 Q. B. 223; 11 J. P. 133.

Where application for relief was made by a pauper to the relieving officer, and the guardians ordered relief, this was held to be evidence of the relief having been given by authority of the particular parish: *Reg. v. Crondall*, 16 L. J. M. C. 175; 10 Q. B. 812; 11 J. P. 486.

If the clerk to a board of guardians request the guardians of another union to relieve a pauper on account of his union, this would be evidence to establish a settlement by admission in a township within his union: *Reg. v. Wigan*, 19 L. J. M. C. 18.

POOR REMOVAL—EXAMINATION OF PAUPER.

*Decisions on
sect. 1.*

If the rent be not paid no settlement is acquired, and the pauper may be removed though he may have resided above 40 days in the tenement: *Rex v. Ampthill*, 2 B. & C. 847.

The examinations must show that the pauper was unmarried at the time of the contract of hiring: *Reg. v. St. Paul, Covent Garden*, 5 Q. B. 669.

The sessions may judge whether, under the circumstances of any particular case, time is so material an element in acquiring a settlement, that the omission to specify it vitiates an examination or notice of appeal: *Rex v. Bridgwater*, 10 A. & E. 693.

A ground of appeal not stating a hiring and service to be for a year is insufficient; and the defect cannot be remedied by referring to the examination if there be nothing to show that the hiring and service relied upon is the same as that mentioned in the examination: *Reg. v. North Bovey*, 11 L. J. M. C. 71; 1 G. & D. 701; 2 Q. B. 500.

The examination of a pauper purporting to be taken by the removing justices at S., and to be sworn by "M. V. of S." stated that M. V. and her children, aged respectively, &c., were then "chargeable to S.," was held a sufficient statement that all the paupers were inhabiting in S. at the time of the examination: *Reg. v. Rotherham*, 12 L. J. M. C. 17; 2 Q. B. 557.

Justices in granting orders of removal on examinations not containing sufficient legal evidence, although acting improperly, are not acting without jurisdiction; and therefore *certiorari* will not lie to remove such an order on affidavits setting forth the examinations in order to inquire into their alleged insufficiency. Nor will *certiorari* be granted to bring up an order of removal on the ground that the parish to which the removal is to take place is misdescribed, if the parish have appealed: *Reg. v. Buckinghamshire JJ.*, 12 L. J. M. C. 29; 3 Q. B. 800; 7 J. P. 97.

If upon an objection to the examination or grounds of appeal, they are not sufficiently particular to enable the parties respectively to go into their case, the justices consider the matter so doubtful as to grant a case on the point, they should nevertheless proceed to hear the evidence, and decide upon the appeal, subject to a case; but if they entertain no doubt that the objection is a valid one, and therefore decide that one party cannot be admitted to prove his examination or grounds of appeal (whichever it may be), no case should be granted: *Reg. v. Kesteven JJ.*, 13 L. J. M. C. 78.

Examinations which do not show a hiring are insufficient: *Reg. v. Catteral*, 5 Q. B. 901.

Where an order of removal is made from A. to B. upon examinations which show evidence of a settlement in B., the sessions cannot refuse to go into such evidence on the ground that the examinations disclose a subsequent settlement in C.: *Reg. v. Whitwick*, 14 L. J. M. C. 25; 8 J. P. 742.

It is not necessary that examinations should negative the fact of the pauper's emancipation at the time relief was given to his father: *Reg. v. Lilleshall*, 14 L. J. M. C. 97; 7 Q. B. 158.

Where a date is material with reference to the state of the law at the time a settlement is alleged to have been gained, it must be stated precisely in the examinations: *Reg. v. St. Paul, Covent Garden*, 7 Q. B. 232; 14 L. J. M. C. 109; 2 J. P. 441.

A statement in an examination that "in or about" a particular year the pauper was hired as a yearly servant, and served as such, was insufficient for not showing with sufficient certainty that such hiring was completed at the time of the passing of 4 & 5 Will. 4, c. 76. The statement was also insufficient for not showing that the pauper was unmarried at the time of the contract expressed or implied, the last year's service being the only year in which the 40 days' residence was alleged: *Reg. v. St. Anne, Westminster*, 15 L. J. M. C. 119.

POOR REMOVAL—EXAMINATION OF PAUPER—*continued.*

An order of removal described the pauper as the widow of J. L., and removed her to W., which the examinations showed to be the place of her maiden settlement. Held, that the examinations supported the order of removal, as the latter furnished evidence of the settlement of J. L. the husband, and that no inquiry into the place of his settlement was necessary: *Reg. v. Watford*, 16 J. L. M. C. 1. *Decisions on sect. 1.*

Examinations stated that the pauper was with his own consent (his parents being dead) bound apprentice by indenture, which was duly stamped and executed, and which was shown to be lost. Held, that it sufficiently appeared that the binding was not a parish binding: *Reg. v. St. Anne, Westminster*, 16 L. J. M. C. 33.

Where an examination states a birth settlement, and then a derivable settlement, and the grounds of appeal denied the latter, the respondents at the trial of the appeal may fall back upon the birth settlement: *Reg. v. Ellesmere*, 18 L. J. M. C. 181; 13 J. P. 346.

Under the general ground of appeal "that the statements contained in the said examinations are not true," the appellants are entitled to call upon the respondents to prove the settlement relied upon in the examinations: *Reg. v. St. Pancras*, 19 L. J. M. C. 23; 12 Q. B. 31; 14 J. P. 175.

POOR REMOVAL—CASUAL POOR.

A labourer employed by his master to drive his cart into a parish with one load, and to return with another, broke his leg there by accident, which detained him some time in such parish, by which he was relieved, is to be considered as casual poor, and as such not removable under 14 Car. 2, c. 12, or 35 Geo. 3, c. 101: *Rex v. St. James, Bury St. Edmunds*, 10 East, 25.

Where a pauper legally settled in the parish of A. met with an accident in the parish of B., was carried into an adjacent parish C., and remained there for a long period, he was to be considered as casual poor in the parish of C. and was irremovable, and the charge could not be thrown upon A.: *Rex v. St. Lawrence, Ludlow*, 4 B. & Ald. 660.

A pauper, originally "casual poor," by remaining in the workhouse may be considered as inhabiting, and become irremovable: *Reg. v. Cuckfield*, 25 L. J. M. C. 4; 5 E. & B. 523; 26 L. T. 58; 20 J. P. 196; 1 Jur. (N. S.) 1047.

POOR REMOVAL—GENERALLY AS TO REMOVALS.

An order to remove a pauper with "his wife and family" is ill, for some may have a legal settlement of their own: *Johnson's case*, Salk. 485.

The sessions being but one day in law may alter their judgment and make a new order; but must certify the latter only: *St. Andrew, Holborn v. St. Clement Danes*, Salk. 494.

An order to remove A. and family will be bad; but an adjudication that the place was that of the last legal settlement is well enough: *Beaston v. Scisson*, Str. 114.

An order for the removal of a mother and her child must contain an adjudication of their last legal settlement: *Rex v. Mansfield*, Burr. S. C. 76; Str. 1040.

An order of removal from one part of a parish to another, must show that each part is a separate vill, has distinct officers, and maintains its own poor: *Rex v. Bramshaw*, Burr. S. C. 98.

If an order says that the children were last legally settled in R., it is not

POOR REMOVAL—GENERALLY AS TO REMOVALS—*continued.*

*Decisions on
sect. 1.*

necessary to set out what ages they were of: *Ringmere v. Petworth*, Sett. & Rem. 41.

An order of removal must particularize children, and set out their ages: *Rostem v. Flixton*, 1 Sess. Ca. 11.

An order of removal made upon "due consideration" is good, for it implies a due examination: *Rex v. Fisherton Delamere*, 2 Sess. Ca. 45.

The direction of the statute as to the indorsement of the warrant, is peremptory: *Rex v. Kynaston*, 1 East, 117.

An order of removal directed to the parish of Poole, or town and county of Poole, is sufficient, though the proper name of the parish be St. James, Poole, there being no other parish in the town and county of Poole: *Rex v. Topsham*, 7 East, 466.

The person aggrieved by the order as to costs, may appeal to the next sessions, though he omit to give notice of appeal within three days after the demand of the costs and charges: *Rex v. Bradford*, 9 East, 97.

An order of justices for removing the wife and daughter of a pauper to the place of their settlement is supported *prima facie* by showing that the parish to which the removal was made was the maiden place of settlement of the wife, although it also appeared by a copy of the marriage register, that the husband was therein described to be of another parish (which description was held to be no evidence of his having a settlement there), and such evidence throws the burden of proof upon the appellants that the husband was settled in another parish: *Rex v. Harberton*, 13 East, 311.

An order of removal without a date was held good, there being an appeal upon which the parties acted: *Rex v. Brimpton*, 2 Smith, 277.

An order for removal of father, if confirmed, is conclusive as to the settlement of the son, although the son be not named in the order, and be emancipated at the time of making it, if he have not acquired any settlement in his own right: *Rex v. Catterall*, 6 M. & S. 83.

Pauper settled in A., subsequently acquired a settlement in B. B. afterwards ceased to be a place maintaining its own poor. Notwithstanding the previous settlement in A., the pauper could not be removed thither: *Rex v. Saighton-on-the-Hill*, 2 B. & Ald. 162.

Even if parol evidence be admissible to prove a ground of decision of the sessions as to an appeal against an order of removal, the order of sessions is not evidence that the father of the pauper was not settled in the appellant parish at an anterior period, if the father's settlement was a matter that arose collateral on the trial of the appeal: *Rex v. Knaptoft*, 2 B. & C. 883.

An order of removal was directed to the churchwardens and overseers of the parish of L. In fact L. was a vill, and had no churchwardens. Held, that the word "churchwardens" might be rejected as surplusage, and that the sessions might, under 5 Geo. 2, c. 115, s. 1, amend the order by inserting in it the word "vill:" *Rex v. Amluch*, 4 B. & C. 757; 3 D. & R. 303.

A woman seised of a messuage in A. as tenant in common, married and resided for some years with her husband in B., where he was legally settled. He was transported, and the wife some time afterwards went with her daughter to live in the messuage in A. Held, that she was irremovable; the sessions having quashed an order removing her and her daughter, it was presumed that the latter was within the age of nurture, and therefore irremovable: *Rex v. Brington*, 7 B. & C. 546.

So much of an order of removal as is retrospective is bad, but it may be good as to the remainder: *Rex v. Maulden*, 8 B. & C. 78.

Fen lands allotted under an Act of parliament, and vested in trustees who were to maintain the poor, were not thereby made extra-parochial; and a

POOR REMOVAL—GENERALLY AS TO REMOVALS—*continued.*

person, by hiring and service on those lands gained a settlement either in the parish where the part of the allotted lands where the service was performed was situate, or in the allotted lands themselves: *Decisions on sect. 1. Rex v. Crowland*, 8 B. & C. 711. —

Where the sessions on determining an appeal have granted a case, but none has been stated, the court will under some circumstances direct a *mandamus* to the justices who heard the appeal to state a case, but not where it is clear that such a proceeding would lead to no result: *Rex v. Pembrokeshire JJ.*, 2 B. & Ad. 391.

A notice of appeal given in the name of the officers of the hamlet of A., and reciting the order to be for the removal to the hamlet of A. in the parish of L., could not, under the circumstances of the case, be objected to by the respondents, the removal being directed to be to the parish of L.: *Rex v. Carmarthenshire JJ.*, 4 B. & Ad. 563.

Paupers were removed to the township of B., which did not maintain its own poor, but was part of the parish of B. Though the order was informal, sessions might amend it: *Rex v. Bingley*, 4 B. & Ad. 567.

A house in the parish of W. was let to A. and B. his wife, for their joint lives and the life of the survivor. A. and B. were ejected wrongfully, but their furniture, and a person who had lodged with them, remained in the house. Afterwards A. assisted the lessor to destroy the lease. Held, that after these transactions A. and B. continued irremovable from W.: *Rex v. Matlock*, 1 A. & E. 124.

A parish was divided into several townships, having separate overseers and poor rates; there was no overseers or poor rate for the whole parish. A district of waste land in the parish, bounded by the sea and some of the townships, but not shown to be included in any of the townships, had been enclosed under an Act of parliament, and an award founded thereon; and under the Act and award the district contributed in certain proportions to the several rates of all the townships. A pauper who had gained a settlement in the district was removed to the parish generally. On appeal of the churchwardens of the parish and the overseers of all the townships, the order of removal was held to be bad: *Rex v. Cartmel*, 2 A. & E. 562; 4 L. J. M. C. 53; 4 N. & M. 357.

Pauper was removed to parish H., which consisted of several townships, maintaining their poor jointly. The order was acquiesced in. Afterwards, one of the townships, O., became separated from the parish under 14 Car. 2, c. 12, s. 21. The pauper was subsequently removed to O. from W. The sessions rejected evidence that the pauper was not settled in O. before its separation; and the court holding that the former order upon H. was not conclusive against O., sent the case back to be reheard: *Rex v. Oldbury*, 4 A. & E. 167; 5 L. J. M. C. 38; 5 N. & M. 547.

On a case sent up by sessions it was stated that the pauper not being resident in the parish of W., was charged by a woman living there with having gotten her with child, and was committed to the county gaol at B. for want of sureties; that the woman's father became his surety, and took lodgings for him at W., to which he removed, and after residing there a week married the woman, became chargeable in about a week after his marriage, and was removed from W. to H. The lodgings were paid for by the woman's father. The case then stated, that on the hearing of the appeal against the order of removal, the respondents offered to prove that the pauper was settled in H., but that the sessions quashed the order on the ground that the pauper had not come to inhabit in W. within the meaning of 14 Car. 2. Held, upon this statement, that it sufficiently appeared that the pauper was removable, and the order of sessions was quashed, and

 POOR REMOVAL—GENERALLY AS TO REMOVALS—*continued.*

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the case sent back to be reheard: *Rex v. Woolpit*, 4 A. & E. 205; 5 L. J. M. C. 14; 5 N. & M. 526.

An order for the removal of the wife and children of a man who was a prisoner in gaol for debt, which order did not show any circumstances which warranted the separation of the wife and her children from her husband, was held to be bad: *Reg. v. Stogumber*, 8 L. J. M. C. 20; 1 P. & D. 409; 9 A. & E. 622.

A decision of sessions that grounds of appeal are insufficiently stated is a decision on a preliminary point, and not on the merits, and the court, if their decision is wrong, will by *mandamus* compel the sessions to rehear the case: *Reg. v. Carnarvonshire JJ.*, 11 L. J. M. C. 3; 2 Q. B. 325; 1 G. & D. 423; but see *Reg. v. Kesteven JJ.*, *infra*.

An order of removal under certain circumstances may be superseded after the removal has taken place: *Reg. v. York W. R. JJ.*, 11 L. J. M. C. 57.

An application for a rule to enter continuances and hear an appeal, should be made in the term following the sessions at which the appeal against an order of removal was dismissed. It will be too late if made afterwards, unless under special circumstances: *Reg. v. York W. R. JJ.*; *Drighlington v. Pudsey*, 11 L. J. M. C. 80; 1 G. & D. 706.

Where a ground of appeal is that the pauper gained a settlement by renting a tenement, it is not sufficient to state that he occupied such tenement even in the case of a dwelling-house. There must be a distinct averment that he resided for 40 days: *Reg. v. York W. R. JJ.*, 11 L. J. M. C. 80.

Pauper in 1822 was born a bastard in one of several townships, in a parish which had then only one set of overseers. From 1832 each of the townships had its own overseers. Held, that the pauper had not gained a settlement in the township of her birth: *Reg. v. Tipton*, 3 Q. B. 15; 11 L. J. M. C. 89.

An order removing collateral relatives is not evidence to prove a settlement: *Reg. v. Sow*, 4 Q. B. 93; 12 L. J. M. C. 38; 7 J. P. 272.

Before the division of a parish into several townships, having separate overseers, a pauper was settled in the parish by hiring and service in H., one of the townships. Held, that he was not therefore removable to H.: *Reg. v. Hunnington*, 5 Q. B. 273; 13 L. J. M. C. 24; 8 J. P. 20. See also *Reg. v. Tipton*, 11 L. J. M. C. 89; 2 G. & D. 92; 3 Q. B. 215; 6 J. P. 568; *Reg. v. Acton*, 8 Q. B. 108; 15 L. J. M. C. 21; 10 J. P. 150.

The notice of grounds of appeal stated that the pauper, in 1812, "rented and occupied" a "tenement" in D., consisting of the keeping or feeding of a cow, of which he was the owner, by and on the land and premises of J. H., for one whole year, and which was of the value of 10*l.* a year, and for which he paid J. H. 4*s.* a week during the whole year. The pauper, it was held, did not appear by this statement to have enjoyed such an interest in the profit of the land as entitled him to a settlement in B.: *Reg. v. Cumberworth Half*, 5 Q. B. 484; 13 L. J. M. C. 49; 8 J. P. 500.

Upon a case stated the sessions ought not simply to state facts and ask the opinion of the court as a jury upon them; having drawn their own conclusions from the facts, they may ask whether the facts will warrant these conclusions: *Reg. v. Pilkington*, 13 L. J. M. C. 61.

Evidence of chargeability is necessary to ground an order of removal; statements which are a conclusion of law are insufficient: *Reg. v. High Bickington*, 13 L. J. M. C. 74.

The question whether the statement of grounds of appeal contains sufficient particularity is for the sessions; and where they have decided it to be insufficient, the court will not grant a *mandamus* to enter continu-

POOR REMOVAL—GENERALLY AS TO REMOVALS—*continued.*

ances and hear the appeal: *Reg. v. Kesteven JJ.*, 13 L. J. M. C. 78, over- *Decisions on*
ruling *Reg. v. Carmarthenshire JJ.*, 2 Q. B. 325; *Reg. v. York W. R. JJ.*, *sect. 1.*
2 Q. B. 331.

Where husband and wife are living together, and become chargeable, and no settlement of the husband can be ascertained, the wife cannot be removed to the place of her maiden settlement, the husband alone consenting to the separation: *Reg. v. Leeds*, 5 Q. B. 916; 13 L. J. M. C. 107; 8 J. P. 517.

It is not an objection to an order removing a mother and her illegitimate child that it adjudicates the settlement of both to be in the mother's parish: *Reg. v. Shipston-upon-Stour*, 13 L. J. M. C. 128.

A statement that the pauper is residing in the workhouse in P., and is chargeable to the township of P., was sufficient evidence of chargeability: *Reg. v. Manchester*, 14 L. J. M. C. 126.

An order of removal signed by justices, one of whom abbreviated his christian name in signing, and the other denoted his christian name by an initial, was held to be sufficiently signed: *Reg. v. Worthenbury*, 14 L. J. M. C. 144; 7 Q. B. 555.

Although the time for appealing had not expired, it was held that the overseers might obtain *certiorari*; and that the order was bad, as being founded on a complaint which did not sufficiently allege that the paupers had come to inhabit: *Reg. v. Willatts*, 14 L. J. M. C. 157; 7 Q. B. 516.

No settlement was gained in a place as a distinct township, which was afterwards amalgamated with another for the appointment of overseers: *Reg. v. Acton*, 15 L. J. M. C. 21; 8 Q. B. 108.

An order of removal was as follows:—"Borough of L., on the complaint of, &c. of the parish of M., in the borough of L. aforesaid, unto us whose names and seals are hereunto set, two of Her Majesty's justices of the peace in and for the said borough, that S. W., &c., now inhabit in the said parish of M., not having gained a legal settlement, and are now actually chargeable to the said parish; we the said justices, upon due proof made thereof, as well as the examinations of the said S. W., upon oath or otherwise, and likewise upon due consideration had of the premises, do adjudge the same to be true; and we do likewise adjudge that the lawful settlement of the said S. W. is in the township of B., &c. Given under our hands and seals this 18th day of August, 1845." Held, (1) it sufficiently appeared that the adjudication as to settlement was made upon proper evidence. (2) That the words "or otherwise" did not import that evidence not upon oath had been received. (3) That it sufficiently appeared that the order was made by the justices within their jurisdiction: *Reg. v. King's Lynn*, 15 L. J. M. C. 93.

The captions upon which an order of removal is founded must show that they were taken upon the complaint of the parish officers who applied for the order: *Reg. v. Molesworth*, 15 L. J. M. C. 108.

Where the relieving officer stated that he had paid the paupers parish relief upwards of a year, during which time he had given them 2s. 6d. weekly on account of S. township, out of money in his hands belonging to the township. This was held not a sufficient statement of chargeability to S.: *Reg. v. Bradford*, 15 L. J. M. C. 117; 8 Q. B. 571; 10 J. P. 375.

An order of removal recited a complaint by the parish officers that the pauper had come into the parish, endeavouring to settle there contrary to law, and adjudicated that he became chargeable to the parish: held bad, because the complaint as recited did not aver chargeability, and therefore the order showed no jurisdiction: *Reg. v. St. Giles-in-the-Fields*, 15 L. J. M. C. 122; 7 Q. B. 529.

Justices may suspend the removal of sick persons.

II. And whereas poor persons are often removed or passed to the place of their settlement during the time of their sickness, to the great danger of their lives: For remedy thereof, be it further enacted, by the authority aforesaid, that in case any poor person shall from henceforth be brought before any justice or justices of the peace, for the purpose of being removed from the place where he or she is inhabiting or sojourning, by virtue of any order of removal, or of being passed by virtue of any vagrant pass, and it shall appear to the said justice or justices that such poor person is unable to travel, by reason of sickness or other infirmity, or that it would be dangerous for him or her so to do, the justice or justices making such order of removal or granting such vagrant pass, are hereby required and authorized to suspend the execution of the same until they are

POOR REMOVAL—GENERALLY AS TO REMOVALS—*continued.*

Decisions on
sect. 1.

Parishes A. and B. were by statute united: held, that a pauper who previously thereto had gained a settlement in A. might be removed to the united parishes A. and B.: *Reg. v. St. Martin, New Sarum*, 15 L. J. M. C. 123; 9 Q. B. 241; 10 J. P. 581.

The appellants are not entitled to object to an order of removal that the examinations did not show the residence of the pauper in the respondent parish: *Reg. v. Watford*, 16 L. J. M. C. 1.

An order of removal recited a complaint "made unto us, two of Her Majesty's justices, acting in and for the county of, &c.," that the pauper "intended and came into the parish of M., and hath actually become chargeable to and is now inhabiting in the same parish." Held, that it sufficiently appeared that the complaint was made to the justices, and that the order was made by them within their jurisdiction. An order of removal is not bad for not directing the removal "on sight hereof," and the statement of the inhabitaney was also held sufficient to justify the order under 35 Geo. 3, c. 101: *Reg. v. St. Paul, Covent Garden*, 7 Q. B. 533; 16 L. J. M. C. 11; 11 J. P. 70.

When an order of removal is brought up by *certiorari*, the court will not notice defects on the face of the order not noticed in the case, although such defects were mentioned in moving for the *certiorari*: *Reg. v. Hartpury*, 8 Q. B. 566; 16 L. J. M. C. 105; 11 J. P. 388.

Under a ground of appeal, which stated generally that "the pauper was not at the time of the order, nor was the late husband at the time of his decease legally settled" in the appellant parish, the respondents were bound to give evidence of the birth settlement (which was the only one alleged) of the pauper's late husband, though there was no ground of appeal traversing the fact of his being born in the appellant parish, or alleging that he was born elsewhere: *Reg. v. St. Giles, Colchester*, 17 L. J. M. C. 148; 12 Q. B. 13; 12 J. P. 645.

It is not an objection to an order of removal that the place at which it is made is not stated in it: *Reg. v. Halifax*, 12 Q. B. 111; 17 L. J. M. C. 158; 12 Jur. 789; 3 N. S. C. 268; 12 J. P. 613.

Since the 35 Geo. 3, c. 101, neither of the removing justices need be of the quorum; and a pauper removed by an order of the mayor and ex-mayor of a municipal borough within 5 & 6 Will. 4, c. 76, which had no separate commission of the peace, was well removed: *Reg. v. Llangian*, 8 L. T. (N. S.) 422; 32 L. J. M. C. 225; 4 B. & S. 249; 10 Jur. (N. S.) 16.

satisfied that it may safely be executed, without danger to any person who is the subject thereof (*a*), which suspension of, and subsequent permission to execute the same, shall be respectively indorsed on the said order of removal or vagrant pass, and signed by such justice or justices (*b*): And no act done by any such poor person continuing to reside in any parish, township, or place, under the suspension of any such order shall be effectual, either in the whole or in part, for the purpose of giving him or her a settlement in the same; and the charges proved upon oath to have been incurred by such suspension of any order of removal may, by the said justices, be directed to be paid by the churchwardens and overseers of the parish or place to which such poor person is ordered to be removed, in case any removal shall take place, or in case of the death of such poor person before the execution of such order (*c*); and if the churchwardens or overseers of the parish, township, or place, to which the order of removal shall be made, or any or either of them, shall upon the removal or death of such poor person ordered to be removed, refuse or neglect to pay the said charges within three days after demand thereof, and shall not within the same time give notice of appeal as is hereinafter mentioned, it shall and may be lawful for one justice of the peace, by warrant under his hand and seal, to cause the money mentioned in such order to be levied by distress and sale of the goods and chattels of the person or persons so refusing or neglecting payment of the same, and also such costs attending the same, not exceeding forty shillings, as such justice shall direct; and if the parish, township, or place, to which the removal of such poor person is made or was ordered to be made, before the death of such person as aforesaid, be without the jurisdiction of the justice of the peace issuing the warrant, then such warrant shall be transmitted to any justice of the peace having jurisdiction within such parish, township, or place as aforesaid, who upon receipt thereof, is hereby authorized and required to indorse the same for execution: Provided nevertheless, that if the sum so ordered to be paid on account of such costs and charges exceed the sum of twenty pounds, the party or parties aggrieved by such order may appeal to the next general quarter sessions against the same, as they may do against an order for the removal of poor persons by any law now in being, and if the court of quarter sessions shall be of opinion that the sum so awarded be more than of right ought to have been directed to be paid, such court may and is hereby directed to strike out the sum contained in the said order, and insert the sum which in the judgment of such court ought to be paid; and in every such case the said court of quarter sessions shall direct that the said order so amended

Charges incurred by such suspension to be paid by the officers of the parish to which they are ordered to be removed, which may be levied with costs.

If costs exceed 20*l.* appeal may be made to the quarter sessions.

(*a*) See 49 Geo. 3, c. 124, s. 2; 4 & 5 Will. 4, c. 76, ss. 78, 84.

(*b*) See 49 Geo. 3, c. 124, s. 1; and 30 & 31 Vict. c. 106, s. 26.

(*c*) See 14 & 15 Vict. c. 105, s. 8; and 30 & 31 Vict. c. 106, s. 26.

shall be carried into execution by the said justices by whom the order was originally made, or either of them, or in case of the death of either of them, by such other justice or justices as the said court shall direct (d): * * *

† * * *

(d) See 4 & 5 Will. 4, c. 76, s. 84; 13 Vict. c. 45; *Ib.* c. 65; 14 & 15 and also 11 & 12 Vict. c. 31; 12 & Vict. c. 105, s. 10.

POOR REMOVAL—SUSPENSION OF ORDER.

*Decisions on
sect. 2.*

The suspending order may be made, though the pauper be not brought before the justices at the time of making the order: *Rex v. Everdon*, 9 East, 101.

Coupling 35 Geo. 3, c. 101, s. 2, with 3 Wm. & M. c. 11, s. 9, appeals lie against an order of removal suspended, and against a subsequent order for costs, notwithstanding the death of the pauper before any removal takes place, and though the costs are under 20*l.*: *Rex v. St. Marylebone*, 13 East, 51.

Where husband, wife, and children were included in an order of removal, and it was suspended, the wife and children being removed after the death of the husband without any subsequent order removing the suspension, is no reason for the sessions to quash the order on appeal, nor to quash another order for payment of the charges of the suspension: *Rex v. Englefield*, 13 East, 317.

If notice of a suspended order of removal be not served on the settlement parish within a reasonable time, the order is a nullity: *Rex v. Lam-peter*, 4 B. & C. 454.

Continuing to occupy a tenement during the suspension of an order of removal is an act which, by 35 Geo. 3, c. 101, s. 2, is ineffectual to gain a settlement: *Rex v. St. John, Hackney*, 2 A. & E. 548; 4 L. J. M. C. 51; 4 N. & M. 336.

Justices have no power, after having made an order of removal to suspend the order, merely because after its date, and before actual removal, the pauper has become too ill to be removed. The legislature has not provided for such a case, but contemplated that the application to suspend the order should be made at the time of applying for the removal: *Reg. v. Llanellchid*, 2 E. & E. 530; 29 L. J. M. C. 102; 24 J. P., n, 84; 548, S. C. *Llanellchid* resp., *Pistyll* app.; 1 L. T. (N. S.) 326; 6 Jur. (N. S.) 198.

POOR REMOVAL—COSTS OF SUSPENSION OF ORDER.

The power given to justices by 35 Geo. 3, c. 101, s. 2, to order costs, is confined to two cases only: the death or removal of the pauper; and if the pauper become irremovable by estate descending to him, no order can be made: *Rex v. Chagford*, 4 B. & Ald. 235.

A pauper settled in O. met with an accident while resident in M., which made him chargeable, and was relieved by M. Being incapable of removal in consequence of the accident, an order of removal to O. was made, and suspended. Held, that under 35 Geo. 3, c. 101, s. 2, O. was liable to the expenses incurred by M. after the order: *Rex v. Oldland*, 4 A. & E. 929; 5 L. J. M. C. 94; 6 N. & M. 529.

Where the court confirmed an order of removal on the ground that the appeal was too late, but quashed an order for payment of costs on the ground that the case was not within 35 Geo. 3, c. 101, s. 2, the pauper not being dead, nor in consequence of 9 & 10 Vict. c. 66, s. 1, removed, it was held that, notwithstanding, the removing parish was entitled to an order on the settlement parish for the expenses of maintenance, the settlement having been finally adjudged to be in that parish, so as to bring the case within 4 & 5 Will. 4, c. 76, s. 84: *Reg. v. Wodehouse*, 15 Q. B. 1037.

IV. Provided always, that from and after the passing of this Act, no person or persons whatsoever, who shall come into any parish, township, or place, shall gain a settlement in such parish, township, or place, by being charged with, and paying his, her, or their share towards the public taxes or levies of the said parish, township, or place, for and on account or in respect of any tenement or tenements, not being of the yearly value (a) of ten pounds.

V. Provided also, that every person who shall have been convicted of larceny, or any other felony * * * or who shall appear to any two or more justices of the peace of the division wherein such person shall reside, upon the oath of one or more credible witness or witnesses, to be a person of evil fame, or a reputed thief, such person not being able to give a satisfactory account of himself or herself, or of his or her way of living, shall be considered as a person actually chargeable, within the true intent and meaning of this Act, to the parish in which such person shall reside, and shall be liable to be removed to the parish of his or her last legal settlement, by the order of the said justices of the peace, whereof one to be of the quorum (b) of the division where any such person shall reside (c).

No person to gain a settlement by paying taxes for a tenement of less than 10*l.* yearly value.

Rogues, &c. to be considered as chargeable, and may be removed.

* * * * *

(a) See 3 W. & M. c. 11, s. 6; 59 Geo. 3, c. 50; 6 Geo. 4, c. 57, s. 2; 1 Will. 4, c. 18; 1 & 2 Will. 4, c. 42, s. 5; 4 & 5 Will. 4, c. 76, s. 66.

(b) See 26 Geo. 2, c. 27; 7 Geo. 3, c. 21; and 4 Geo. 4, c. 27.

(c) See 5 Geo. 4, c. 83, s. 20.

POOR REMOVAL—COSTS OF SUSPENSION OF ORDER—*continued.*

Where an order of two justices, for payment of charges incurred under a suspension of a removal order, is sought to be enforced under 35 Geo. 3, c. 101, s. 2, before one justice, and the order is valid on the face of it, such justice cannot entertain objections to the merits, whether there was an appeal to quarter sessions or not; his duty is merely ministerial, and he must enforce it by warrant of distress: *Reg. v. Higginson*, 8 Jur. (N. S.) 1176; 1 B. & S. 471; 31 L. J. M. C. 189; S. C. *Reg. v. York N. R. JJ.* 26; J. P. 629.

Decisions on Sect. 2.

SETTLEMENT—PAYMENT OF TAXES.

35 Geo. 3, c. 101, s. 4, extended to persons who were in the parish at the time of the passing of the Act: *Rex v. Islington*, 1 East, 283.

Decisions on Sect. 4

A person who occupied at 4*l.* a year part of a dwelling-house of the annual value of 18*l.*, did not since 35 Geo. 3, c. 101, s. 4, acquire a settlement, though he was rated, and paid the church and poor rates for the whole house: *Rex v. Penryn*, 5 M. & S. 443.

A settlement might be gained by being rated and paying parochial taxes in respect of a tenement above the annual value of 10*l.*: *Rex v. St. Pancras*, 2 B. & C. 122.

Between the passing of 35 Geo. 3, c. 101, and 6 Geo. 4, c. 57, a settlement might be gained by reason of a person being charged with and paying his share towards the public taxes in respect of a tenement above 10*l.* annual value: *Rex v. Penryn*, 4 B. & Ad. 224.

36 GEO. III. CHAP. 10.

AN ACT for the better Relief of the Poor within the several Hundreds, Towns, and Districts, in that Part of Great Britain called England, incorporated by divers Acts of Parliament for the Purpose of the better Maintenance and Employment of the Poor ; and for enlarging the Powers of the Guardians of the Poor within the said several Hundreds, Towns, and Districts, as to the Assessments to be made upon the several Parishes, Hamlets, and Places, within their respective Hundreds, Towns, and Districts, for the Support and Maintenance of the Poor.

[18th December, 1795.]

Preamble.

WHEREAS several Acts of parliament have of late years been made and passed, for the better relief and employment of the poor, in particular incorporated hundreds, towns, and districts, within that part of Great Britain called England : And whereas certain persons, described and appointed by the said several Acts, are thereby empowered to assess the several parishes, hamlets, and places, chargeable to the poor rate within the said several hundreds, towns, or districts respectively, in such sums of money, as they shall think necessary for defraying the expenses of supporting and maintaining the poor within their respective hundreds, towns, and districts, and for other the purposes of the said Acts ; but such sums of money, for which such assessments are to be made, are by the said several Acts of parliament limited so as that they may not exceed a certain sum in any one year, which sum was calculated upon an average of the amount of the poor rates in each parish respectively, for a certain number of years previous to the passing of the respective incorporating Acts : And whereas, by reason of the late very great increase of the price of corn, and other necessary articles of life, the amount of the rates and assessments, so limited by the said several Acts of parliament, are become insufficient for the necessary relief and maintenance of the poor, who have also of late greatly increased in number : And whereas, in many incorporated hundreds, towns, and districts, the expense of maintaining the poor, since the first day of January, one thousand seven hundred and ninety-five, has exceeded the whole amount of the rates which could be raised in the present year within those hundreds, towns, and districts, under their respective incorporating Acts ; whereby considerable debts have on that account been incurred by the guardians of the poor of those hundreds, towns, and districts : And it is therefore become necessary and expedient, that the powers of the several persons to whom is committed, by the said several Acts of parliament, the duty of appointing the sums to be assessed on the several

parishes, hamlets, and places within their respective hundreds, towns, and districts, should be enlarged: May it therefore please your Majesty that it may be enacted, and be it enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, That from and after the passing of this Act it shall and may be lawful for the directors and acting guardians of the poor, within any hundred, town, or district, in that part of Great Britain called England, incorporated by any Act of parliament for the relief or maintenance and employment of the poor, or for any other person by whatsoever name they are called or described, to whom is given, by any such incorporating Act, the power of appointing the sum or sums to be assessed on the several parishes, hamlets, or places, within their respective hundreds, towns, or districts, for the maintenance of the poor, and other the purposes of such Act, at any of their annual, quarterly, or other general meetings, whenever the average price of wheat, at the corn market, in Mark Lane, London, for the quarter immediately preceding such annual, quarterly, or other general meeting, shall have exceeded the average price of wheat at the same market, during those years from which the average amount of the poor rates was taken upon the passing of the several incorporating Acts respectively, to assess the several parishes, hamlets, and places, within their respective hundreds, towns, or districts, which now are or usually have been charged to the poor rates, in such respective sums of money as the said directors and acting guardians, or such other persons as aforesaid, shall think necessary for defraying the expenses attending the support and maintenance of the poor for the current quarter, and for paying the interest of the money borrowed and due, by virtue of the said respective Acts, and of any debts which may have been incurred since the first day of January, one thousand seven hundred and ninety-five, in the maintenance of the poor, and for other the purposes of the said Acts, notwithstanding such sums of money so to be assessed should exceed the amount of the assessments limited by such respective Acts of parliament, to be assessed on the respective parishes, hamlets, and places, within such incorporated hundreds, towns, or districts, in any one year: Provided always, that the sums to be assessed, and the assessments to be made by virtue of this Act, in each respective incorporated hundred, town, or district, shall be assessed, made, collected, and paid in the same manner, and subject to the same restrictions, regulations, limitations, and powers of appeal, and with the like powers and remedies for compelling payment thereof, as the sums to be assessed, and the assessments to be made, by virtue of the several incorporating Acts, are by those respective Acts directed to be assessed, collected, and made, within the several hundreds, towns, and districts, respectively incorporated by those Acts: Provided also, that the sums to be assessed by virtue of this Act, upon any parish,

Directors and acting guardians of the poor, incorporated by Acts of parliament, may, in certain cases, make such assessments as may be necessary for the support and maintenance of the poor, &c. notwithstanding they may exceed the assessments limited by the respective Acts.

Assessments by virtue of this Act to be made, &c. as those under the incorporating Acts.

hamlet, or place, shall be in the same rates and proportions, as the assessments which have hitherto been made and levied by virtue of the said Act or Acts incorporating the several hundreds, towns, or districts, in which such parishes, hamlets, or places are respectively situated : * * *

37 GEO. III. CHAP. 143.

AN ACT to explain and amend an Act, made in the thirty-fifth Year of the Reign of His present Majesty, intituled, "An Act for the more effectual Prevention of the Use of defective Weights, and of false and unequal Balances."

[20th July, 1797.]

* * * * *

If the majority of inhabitants wish that any persons should be specially appointed examiners, they may, in vestry, nominate them for approbation of the justices.

IV. If the majority of the inhabitants of any parish, township, or place, within such county, riding, or division, should be desirous that any person or persons shall be specially appointed to examine the weights and balances within such parish, township, or place, it shall and may be lawful for such inhabitants, and they are hereby empowered (at a vestry to be duly holden for that purpose) to nominate one or more substantial householder or householders, to be approved of and appointed by the said justices, at their respective petty sessions for the division or district wherein such parish, township, or place shall lie ; which person or persons so nominated, approved, and appointed, shall have the same powers and authorities, within such parish, township, or place, as are vested in the person or persons appointed for any district, division, or place respectively.

But no such appointment shall be made till the inhabitants have procured standard weights, the costs of which, and the recompense to the examiners, to be paid out of the poor rates.

V. No appointment for such parish, township, or place, shall be made until the inhabitants thereof have procured, or caused to be procured, the proper weights, according to the standard in the exchequer, for the use of such parish, township, or place, to be deposited in the custody of the person or persons to be appointed as last mentioned ; and that it shall and may be lawful for the said justices, in their respective petty sessions, to order and direct the costs and charges of procuring such weights, and the recompense and satisfaction to be allowed to such person or persons, for his or their time and trouble in the execution of such office, within such parish, township, or place, to be paid out of the rate made for the relief of the poor, within such parish, township, or place.

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39 & 40 GEO. III. CHAP. 94.

AN ACT for the safe Custody of Insane Persons charged with Offences.

[28th July, 1800.]

“WHEREAS persons charged with high treason, murder or felony, may have been or may be of unsound mind at the time of committing the offence wherewith they may have been or shall be charged, and by reason of such insanity may have been or may be found not guilty of such offence, and it may be dangerous to permit persons so acquitted to go at large:” Be it therefore enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, That in all cases where it shall be given in evidence upon the trial of any person charged with treason, murder, or felony, that such person was insane at the time of the commission of such offence, and such person shall be acquitted, the jury shall be required to find specially whether such person was insane at the time of the commission of such offence, and to declare whether such person was acquitted by them on account of such insanity; and if they shall find that such person was insane at the time of the committing such offence, the court before whom such trial shall be had, shall order such person to be kept in strict custody, in such place and in such manner as to the court shall seem fit, until His Majesty’s pleasure shall be known; and it shall thereupon be lawful for His Majesty to give such order for the safe custody of such person, during his pleasure, in such place and in such manner as to His Majesty shall seem fit; and in all cases where any person, before the passing of this Act, has been acquitted of any such offences on the ground of insanity at the time of the commission thereof, and has been detained in custody as a dangerous person by order of the court before whom such person has been tried, and still remains in custody, it shall be lawful for His Majesty to give the like order for the safe custody of such person during his pleasure, as His Majesty is hereby enabled to give in the cases of persons who shall hereafter be acquitted on the ground of insanity(a).

How jury to act where persons charged with treason, &c. prove to be insane.

Proceedings.

II. And be it further enacted, that if any person indicted for any offence shall be insane, and shall, upon arraignment, be found so to be, by a jury lawfully impannelled for that purpose, so that such person cannot be tried upon such indictment, or, if upon the trial of any person so indicted, such person shall appear to the jury charged with such

Insane persons indicted, and found insane.

(a) See 3 & 4 Vict. c. 54, ss. 3, 7; Vict. c. 75, s. 10; 25 & 26 Vict. 16 & 17 Vict. c. 96, s. 38; 23 & 24 c. 86, s. 15.

Proceedings. indictment to be insane, it shall be lawful for the court before whom any such person shall be brought to be arraigned or tried as aforesaid, to direct such finding to be recorded, and thereupon to order such person to be kept in strict custody, until His Majesty's pleasure shall be known; and if any person charged with any offence shall be brought before any court to be discharged for want of prosecution, and such person shall appear to be insane, it shall be lawful for such court to order a jury to be impannelled to try the sanity of such person; and if the jury so impannelled shall find such person to be insane, it shall be lawful for such court to order such person to be kept in strict custody, in such place, and in such manner, as to such court shall seem fit, until His Majesty's pleasure shall be known; and in all cases of insanity so found, it shall be lawful for His Majesty to give such order for the safe custody of such person so found to be insane, during his pleasure, in such place and in such manner as to His Majesty shall seem fit.

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39 & 40 GEO. III. CHAP. 99.

AN ACT for better regulating the Business of Pawnbrokers.
[28th July, 1800.]

* * * * *

Unlawfully
pawning goods
the property of
others.

VIII. From and after the commencement of this Act, if any person or persons shall knowingly and designedly pawn, pledge, or exchange, or unlawfully dispose of the goods or chattels of any other person or persons, not being employed or authorized by the owner or owners thereof so to do, it shall be lawful for any justice to grant his warrant to apprehend any person so offending, and if he, she, or they shall be thereof convicted, by the oath of any credible witness or witnesses, or by the confession of the person or persons charged with such offence, before any justice or justices of the peace for the county, riding, division, city, liberty, town, or place where the offence shall be committed (which oath every such justice or justices as aforesaid is and are hereby empowered and required to administer), every such offender shall, for every such offence, forfeit any sum not exceeding five pounds nor less than twenty shillings, and also the full value of the goods or chattels so pawned, pledged, exchanged, or disposed of, such value to be ascertained by such justice or justices; and in case the said forfeitures shall not be forthwith paid, the justice or justices of the peace as aforesaid before whom such conviction shall be had, shall commit the

Penalty.

party or parties so convicted to the house of correction or some other public prison of the county, riding, division, city, liberty, town, or place wherein the offender or offenders shall reside or be convicted, there to remain and be kept to hard labour for a space not exceeding three calendar months, unless the said forfeitures shall be sooner paid; and if within three days before the expiration of the said term of commitment the said forfeitures shall not be paid, the said justice or justices, at his and their discretion, may order the person or persons so convicted to be publicly whipped in the house of correction or prison to which the offender or offenders shall have been committed, or in some other public place of the county, riding, division, city, liberty, town, or place where the offence shall have been committed, as to such justice or justices shall seem proper; and the said respective forfeitures, when recovered, shall be applied towards making satisfaction thereout to the party or parties injured, and defraying the costs of the prosecution, as shall be adjudged reasonable by the justice or justices before whom such conviction shall be had; but if the party or parties injured shall decline to accept of such satisfaction and costs, or if there shall be any overplus of the said respective forfeitures, after making such satisfaction and paying such costs as aforesaid, then such respective forfeitures, or the overplus thereof (as the case shall happen) shall be paid and applied to and for the use of the poor of the parish or place where such offence shall have been committed, and shall be paid to the overseers of the poor of such parish or place for that purpose.

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41 GEO. III. CHAP. 23. (U. K.)

AN ACT for the better Collection of Rates made for the Relief
of the Poor (a). [18th April, 1801.]

“WHEREAS by an Act of parliament made and passed in the seventeenth year of the reign of his late Majesty King George the Second, intituled, ‘An Act for Remedying some Defects in the Act made in the forty-third Year of the Reign of Queen Elizabeth, intituled An Act for the Relief of the Poor;’ power was given to justices of the peace, upon appeals from rates and assessments, where they should see just cause to give relief, to amend the same in such manner only as should be necessary for giving such relief, without altering such rates or assessments with respect to other persons mentioned in the same: And whereas the quashing or setting aside of rates or assessments

17 Geo. II.
c. 38, s. 6.

(a) See 17 Geo. 2, c. 38; 6 & 7 Will. 4, c. 96.

On appeal from any poor rate, the quarter sessions may amend it without quashing it ; or, if necessary to grant relief, may quash the rate ; but the sum assessed shall notwithstanding be levied and applied in satisfaction of the next effective rate.

made for the relief of the poor, is attended with great inconvenience ; and it hath happened, in consequence of the rate or assessment being quashed or set aside, or of notice of appeal against the whole rate being given, the churchwardens and overseers of the poor have not had any money in hand for the relief and maintenance of the poor :” For remedy whereof, may it please your Majesty that it may be enacted, and be it enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this Act, upon all appeals from any rate or assessment made for the relief of the poor of any parish, township, vill, or place, the court of general or quarter sessions of the peace shall, and such court is hereby authorized and required (in all cases where they shall see just cause to give relief), to amend such rate or assessment, either by inserting therein or striking out the name or names of any person or persons, or by altering the sum or sums therein charged on any person or persons, or in any other manner which the said court shall think necessary for giving such relief, and without quashing or wholly setting aside such rate or assessment : Provided always, that if the said court shall be of opinion that it is necessary, for the purpose of giving relief to the person or persons appealing, that the rate or assessment should be wholly quashed, then the said court may quash the same ; but nevertheless, all and every the sum and sums of money in and by such rate or assessment charged on any person or persons, shall and may be levied and recovered by such ways and means, and in such and the same manner, as if no appeal had been made against such rate or assessment ; and all and every the sum and sums of money which any person or persons charged in such rate or assessment shall pay, or which shall be levied upon or recovered from him, her, or them, shall be deemed and taken as payment on account of the next effective rate or rates, assessment or assessments, which shall be made for the relief of the poor of the same parish, township, vill, or place.

POOR RATE—APPEAL AGAINST.

Decisions on
sect. 1.

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If a person be aggrieved by any person being put on or left out of a rate, or by the sum with which he is charged, his remedy is by appeal against the rate : *Rex v. Witney*, 5 Burr. 2634.

On appeal from a poor rate because particular persons or particular property only is omitted from the rate, the sessions ought not to quash the whole rate, but should amend it in such particulars : *Rex v. Ringwood*, Cowp. 326.

Stock-in-trade was rateable, notwithstanding it had never been rated in the parish, unless there were some circumstances to take it out of the general rule ; but on appeal against a rate on the ground that a person was not rated for his stock-in-trade, the sessions ought to amend the rate, and not quash it : *Rex v. Ambleside*, 16 East, 380.

II. From and after the passing of this Act, all and every the sum and sums of money at which any person or persons is or are or shall be rated or assessed, in any rate or assessment made for the relief of the poor of any parish, township, vill, or place, shall and may be levied and recovered by distress, and all other lawful ways and means, notwithstanding the person or persons so rated or assessed, or any other person or persons shall have given notice of appeal from or against such rate or

Notice of appeal shall not prevent distress being made for the recovery of the rate, but

POOR RATE—AMENDMENT OF.

The 41 Geo. 3, c. 23, s. 1, does not give the Court of King's Bench the power of amending a poor rate: *Rex v. Mitton*, 3 B. & Ald. 112. *Decisions on sect. 1.*

POOR RATE—REDUCTION OF ON APPEAL.

Under 41 Geo. 3, c. 23, if a rate be appealed against, and reduced, but the person rated has during the appeal paid on the unreduced assessment, the parish officers may, in subsequent rates, credit him for the excess paid, without an order of sessions: *Reg. v. Parker*, 7 E. & B. 155; 26 L. J. M. C. 313; 3 Jur. (N.S.) 771.

POOR RATE—WHAT IS NOT THE NEXT EFFECTIVE RATE.

A rate in February being quashed on appeal, another rate was made in June; but being in want of funds, it was agreed that this rate should be collected in full, and the sums paid on account of the quashed rate allowed out of the rate to be made in October. Held, *per* Lord Campbell, C. J., and Wightman, J., that the October rate was not the next effective rate within the meaning of 41 Geo. 3, c. 23, and that the parish officers could not allow the sums paid for the quashed rate out of it; but *per* Erle and Crompton, J.J., under the circumstances, the court ought not to grant a *mandamus* to compel the justices to issue their warrant to enforce payment of the October rate in full: *Reg. v. Surrey JJ.*, 31 L. T. 161; S. C. *Reg. v. Kingston-upon-Thames JJ.*, 27 L. J. M. C. 201; 1 E. & B. 259.

POOR RATE—RETROSPECTIVE RATE.

A February rate partly collected was quashed, but its collection continued. In a June rate no deductions were allowed by the overseers in respect of payments of the February rate. In October another rate was made of 3s. in the £, instead of 1s. 6d., for the purpose of enabling the overseers to make the deduction of 1s. 6d. in the £ in respect of payments on the February rate. A house, of which P. was the owner, was unoccupied at the time the February rate was made. He paid the June rate, but claimed a deduction for the October rate, on the ground that as to a moiety thereof it was retrospective. On application for a rule to justices to issue a distress warrant for the October rate, it was held, that P. was not entitled to the deduction, and the justices had no jurisdiction to inquire into the validity of the rate: *Reg. v. Mason*, 4 Jur. (N.S.) 758; *Reg. v. Lambert*, *ib.* 759.

POOR RATE—RECOVERY OF EXCESS OF RATE.

It did not appear that notice of appeal against a rate had been given to the overseers under 41 Geo. 3, c. 23, s. 2, before levying the amount of it, and in an action brought to recover back an excess rate as money had and received to the use of the overseers, the court held, that as no notice of appeal had been given to the overseers, the action could not be maintained: *Priestly v. Watson*, 1 Cr. & Mee. 691; 4 Tyr. 916. *Decisions on sect. 2.*

no greater sum shall be proceeded for than that assessed in the last effective rate.

assessment for any cause whatsoever: Provided always, that if any person, rated or assessed in any rate or assessment, made for the relief of the poor, shall give such notice of appeal as hereinafter mentioned (a), to the churchwardens and overseers of the poor of any parish, township, vill, or place, or any two of them, then from and after the giving of such notice, and until the appeal shall have been heard and determined, no proceedings shall be commenced or carried on to recover any greater sums or sums of money from such person or persons than the sum or sums at which he, she, or they, or any occupier of the same premises, shall have been rated or assessed in the last effective rate which shall have been collected in such parish, township, vill, or place.

Quarter sessions having ordered a rate to be quashed, may order the sum charged on any person not to be paid, and stop proceedings for the recovery thereof, &c.

Justices, &c. shall not be liable as trespassers for previous proceedings.

III. In case the said court of general or quarter sessions of the peace shall, upon appeal, order any rate or assessment for the relief of the poor to be quashed, it shall be lawful for the said court to order that any sum or sums of money, in and by such rate or assessment charged on any person or persons, or any part of any such sum or sums, not to be paid, and then and in every such case no proceedings shall, after making such order, be commenced; or if any proceedings have been previously commenced, such proceedings shall be no further prosecuted or carried on for the purpose of levying or enforcing the payment of any sum or sums which shall be so ordered by the said court not to be paid as aforesaid: Provided always, that no justice of the peace, constable or other officer of the peace, or other person, shall be deemed a trespasser, or liable to any action, for any warrant, order, act or thing, which such justice, constable, or other officer or person shall have granted, made, executed, or done, for the purpose of levying or enforcing the payment of any such sum or sums of money, before he shall have had notice in writing of the order for the non-payment of such sum or sums of money, which the said court is hereby authorized to make as aforesaid.

Notices of appeal against poor rates, or accounts of churchwardens, &c. shall be in writing, &c. and shall specify the grounds of appeal.

IV. From and after the passing of this Act, all notices of appeal from or against any rate or assessment made for the relief of the poor, or *from or against the account of the churchwardens and overseers of the poor of any parish, township, vill, or place* (b), shall be in writing, and shall be signed by the person or persons giving the same, or his, her, or their attorney, on his, her, or their behalf; and such notices of appeal shall be delivered to or left at the places of abode of the churchwardens and overseers of the poor of the parish, township, vill, or place, or any two of them, and the particular causes or grounds of appeal shall be stated and specified in such notice; and upon the hearing of any appeal from or against any such rate or

^a (a) Section 4.

(b) The words in italics are not now applicable, see 7 & 8 Vict. c. 107, s. 32.

assessment, or account, the court of general or quarter sessions to which such appeal shall be made, shall not examine or inquire into any other cause or ground of appeal than such as are or is stated and specified in the notice of appeal (c).

V. Provided nevertheless, that with the consent of the overseers, signified by them or their attorney in open court, and with the consent of any other person interested therein, the said court of sessions may proceed to hear and decide upon such appeal, although no notice thereof shall have been given in writing; and also that with the like consent such court may hear and decide upon grounds of appeal, not stated or misstated in such written notice, where any notice shall have been given in writing.

Appeals may be decided, if the parties consent, although such notice be not given.

VI. From and after the passing of this Act, if any person or persons shall appeal against any rate or assessment made for the relief of the poor, because any other person or persons is or are rated or assessed in such rate or assessment, or is or are omitted to be rated or assessed therein, or because any other person or persons is or are rated or assessed in any such rate or assessment at any greater or lesser sum or sums of money than the sum or sums at which he, she, or they, ought to be rated or assessed therein, or for any other cause that may require any alteration to be made in such rate or assessment with respect to any other person or persons, then, and in every such case, the person or persons so appealing for the causes aforesaid, or any of them, shall give such notice of appeal, in writing as hereinbefore mentioned, not only to the churchwardens or overseers of the poor, or any two or more of them, but also to the other person or persons so interested or concerned in the event of such appeal as aforesaid; and such other person or persons shall, if he, she, or they shall so desire, be heard upon the said appeal; and it shall be lawful for the court of general or quarter sessions of the peace, on the hearing of such appeal, to order the name or names of such other person or persons to be inserted in such rate or assessment, and him, her, or them, to be therein rated and assessed at any sum or sums of money, or to order the name or names of such other person or persons to be struck out of such rate or assessment,

Persons appealing against any rate shall give notice not only to the churchwardens, &c., but also to the persons interested, &c.

(c) See 17 Geo. 2, c. 38, s. 4.

COSTS OF LEGAL PROCEEDINGS BY OVERSEERS.

Overseers' accounts being allowed by the justices, and an appeal against them dismissed, the allowance and order of sessions were brought up by *sect. 4. certiorari*, and an item appeared to be for the expenses of defending an appeal against the overseers' accounts. The court thereupon quashed the allowance and order, such an item being bad on the face of it, inasmuch as no supposable facts could justify it: *Rex v. Johnson*, 5 A. & E. 340.

or the sum or sums at which he, she, or they, is or are rated or assessed therein, to be altered in such manner as the said court shall think right; and the proper officer of the said court shall forthwith add to or alter the rate or assessment accordingly.

The rate shall be recovered as altered by the quarter sessions.

VII. If upon the hearing of any appeal from or against any rate or assessment, the said court shall order the name or names of any person or persons to be inserted therein, and him, her, or them, to be rated or assessed at any sum or sums of money, or shall order the sum or sums, at which any person or persons is or are therein rated or assessed, to be raised or increased, then, and in such case, all and every the sum and sums of money at or to which such person or persons shall be so ordered to be rated or assessed, or to be raised or increased, or so much thereof as shall not have been already paid, shall and may be recovered in such and the same manner, and by such and the same means, as if he, she, or they, had been originally named in such rate or assessment, and rated or assessed therein at such sum or sums of money.

In case in the rate the name of any person shall be struck out, or any sum lowered, the quarter sessions shall order the money, which ought not to have been recovered, to be repaid with costs by the churchwardens, &c.

VIII. If upon the hearing of any appeal from any rate or assessment for the relief of the poor, the court of general or quarter sessions of the peace shall order the name or names of any person or persons to be struck out of such rate or assessment, or the sum or sums rated or assessed on any person or persons to be decreased or lowered; and if it shall be made appear to the said court, that such person or persons hath or have, previously to the hearing of such appeal, paid any sum or sums of money, in consequence of such rate or assessment, which he, she, or they, ought not to have paid, or been charged with, then and in every such case the said court shall order all and every such sum and sums of money to be repaid and returned, by the said churchwardens and overseers of the poor,

POOR RATE—GROUNDS OF APPEAL.

Decisions on sect. 6.

The sessions have power to decide upon whether they will permit an appellant to abandon a particular ground of appeal and proceed with the others; and the court will not interfere to review their decision: *Reg. v. Cambridgeshire JJ.*, 1 Lownd. Max. & Pol. 47.

Where the sessions have put a particular construction upon a ground of appeal, if it will bear that construction, the court will not review their decision: *Id.*

POOR RATE—RESPITE OF APPEAL.

Where a person has appealed against a poor rate on the ground that other persons are omitted or under-rated, and has served notice of appeal on the parish officers, but not on the persons objected to, as required by 41 Geo. 3, c. 23, s. 6, the next sessions are bound to enter and respite the appeal under 17 Geo. 2, c. 38, s. 4.: *Reg. v. Eyre*, 26 L. J. M. C. 14; 6 E. & B. 992; 2 Jur. (N. S.) 1207; 3 Jur. (N. S.) 910, 912.

to the person or persons having paid the same respectively, together with all reasonable costs, charges and expenses, occasioned by such person or persons having paid or been required to pay the same; and all and every the sum and sums of money so ordered to be repaid or returned by the churchwardens and overseers of the poor, or any of them, shall and may, together with all such costs, charges, and expenses as aforesaid, be levied and recovered from them, or any of them, by distress and all such other ways and means as the money charged, rated, or assessed on any person, by any rate or assessment made for the relief of the poor, can or may be by law levied or recovered.

* * * * *

41 GEO. III. CHAP. 109. (U. K.)

AN ACT for consolidating in one Act certain Provisions usually inserted in Acts of Inclosure; and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts (a).

[2nd July, 1801.]

* * * * *

III. "And whereas disputes or doubts may arise, concerning the boundaries of parishes, manors, hamlets, or districts, to be divided and inclosed, and of parishes, manors, hamlets, or districts, adjoining thereto;" Be it therefore enacted, that the commissioner or commissioners appointed in or by virtue of any such Act shall, and he or they is and are hereby authorized and required, by examination of witnesses upon oath or affirmation (which oath or affirmation any one of such commissioners is

Commissioners shall inquire into the boundaries of parishes, and

(a) See 56 Geo. 3, c. 49, s. 2; 2 & 3 Vict. c. 62, s. 34.

POOR RATE—REPAYMENT OF ON APPEAL.

The application for an order to refund under 41 Geo. 3, c. 23, s. 8, must be made to the same court of general or quarter sessions which heard the appeal, or at least to that court which ordered the rate to be lowered: *Re St. Peter's Liberty, York*, 4 B. & Ald. 342. *Decisions on sect. 8.*

On the reference of an appeal against a poor rate, the rate was reduced, and the overseers being willing to refund the amount overcharged in that and subsequent rates, applied to the auditor to be allowed to do so. The auditor required that an order of quarter sessions should be obtained under 41 Geo. 3, c. 23, s. 8. Upon an application for a rule to the justices to show cause why they should not issue a distress warrant for the subsequent rates which were due and unpaid: held, that the granting a *mandamus* to the justices would be an act of injustice, and that the overseers would do well to make the allowance without an order of sessions: *Reg. v. Parker, and Warwickshire JJ.*, 21 J. P. 390, 549; 3 Jur. (N. s.) 771; 7 E. & B. 155; 26 L. J. M. C. 199.

if not sufficiently ascertained, they shall fix them, giving previous notice of their intention so to do.

hereby empowered to administer), and by such other legal ways and means as he or they shall think proper, to inquire into the boundaries of such several parishes, manors, hamlets, or districts; and in case it shall appear to such commissioner or commissioners that the boundaries of the same respectively are not then sufficiently ascertained and distinguished, such commissioner or commissioners shall, and he or they is and are hereby authorized and required to ascertain, set out, determine, and fix the same respectively; and after the said boundaries shall be so ascertained, set out, determined, and fixed, the same shall and are hereby declared to be the boundaries of such parishes, manors, hamlets, or districts: Provided always, that such commissioner or commissioners (before he or they proceed to ascertain and set out the boundaries of such parishes, manors, hamlets, or districts) shall, and he or they is and are hereby required to give public notice, by writing under his or their hands, to be affixed on the most public doors of the churches of such parishes, and also by advertisement to be inserted in some newspaper to be named in such Act, and also by writing to be delivered to or left at the last or usual places of the abode of the respective lords or stewards of the lords of the manors in which the lands and grounds to be inclosed shall be situate, and of such adjoining manor or manors, ten days at least before the time of setting out such boundaries, of his or their intention to ascertain, set out, determine, and fix the same respectively; and such commissioner or commissioners shall, within one month after his or their ascertaining and setting out the same boundaries, cause a description thereof in writing to be delivered to or left at the places of abode of one of the churchwardens or overseers of the poor of the respective parishes, and also of such respective lords or stewards: Provided always, that if any person or persons interested in the determination of the said commissioner or commissioners respecting the said boundaries shall be dissatisfied with such determination, such person or persons may appeal to the justices of the peace acting in and for the county in which such lands or grounds shall be situate at any general quarter sessions of the peace to be holden within four calendar months next after the aforesaid publication of the said boundaries, by delivering or leaving such description as aforesaid, the party or parties making such appeal giving eight days' notice of such appeal, and of the matter thereof in writing to the commissioners; and the decision of the said justices therein shall be final and conclusive, and shall not be removed or removable by *certiorari*, or any other writ or process whatsoever, into any of His Majesty's courts of record at Westminster, or elsewhere.

Commissioners shall cause a description of boundaries to be delivered to one churchwarden, &c. of the respective parishes, and the lords of manors, &c. Persons dissatisfied may appeal to the quarter sessions.

Decisions at the sessions shall be final.

42 GEO. III. CHAP. 46.

AN ACT to require Overseers and Guardians of the Poor to keep a Register of the several Children who shall be bound or assigned by them as Apprentices; and to extend the Provisions of an Act passed in the twentieth Year of the Reign of His present Majesty, to the binding of Apprentices by Houses of Industry, or Establishments for the Poor, which have been authorized so to do by subsequent Acts.

[7th May, 1802.]

“ WHEREAS by an Act passed in the forty-third year of the reign of Queen Elizabeth, intituled, ‘An Act for the Relief of the Poor,’ the overseers of the poor of every parish are enabled to bind out any poor children as apprentices, until every such poor male child shall attain the age of twenty-four years, and until every such female child shall attain the age of twenty-one years, or the time of her marriage: And whereas it would tend to the benefit of the children so bound as apprentices, if the overseers of the poor were required to keep a register of all children who shall be so bound:” May it therefore please your Majesty, that it may be enacted, and be it enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that the overseers of the poor of every parish, township, or place, appointed by virtue of the said recited Act, passed in the forty-third year of the reign of Queen Elizabeth, shall, from and after the first day of June, and they are hereby required to provide and keep a book or books, at the expense of the said parish, township, or place, and to enter or cause to be entered therein, the name of every child who shall be bound out by them respectively as an apprentice, together with the several other particulars, in manner and form required by this Act, according to the Schedule hereunto annexed; and every such entry, when made in the said register, shall be produced and laid before the two justices of the peace, who shall signify their assent to the indenture of apprenticeship of every such child, at the time when such indenture shall be laid before such justices for their assent, as required by the said recited Act; and each entry in the said register shall, if approved of by such justices, be signed by them according to the form marked in the Schedule hereunto annexed (a).

43 Eliz. c. 2.

Overseers of the poor shall keep a book for entering the name of every apprentice bound out by them, and each entry shall be signed by two justices, according to the form in the Schedule.

II. If any overseer or overseers of the poor shall refuse or neglect or provide and keep such book or books, or to make such entry therein as before directed, or shall destroy, or permit, suffer, or cause to be destroyed, any such book or books, or shall wilfully and knowingly obliterate, deface, or alter any such entry, so that the same shall not be a true entry of the several particulars hereby required, or shall wilfully and know-

Penalty for not providing such book, or neglecting to make such entries therein, &c. not exceeding

(a) See 7 & 8 Vict. c. 101, s. 12; 14 & 15 Vict. c. 11, s. 3.

57., leviable by distress, &c. ingly make a false entry therein, or shall so permit, suffer, or cause the same to be done, or shall not produce or lay such book or books before such justices as aforesaid for their signatures, or shall not deliver or tender, or cause to be delivered or tendered, such book or books to his, her, or their successor or successors in office, within fourteen days after the appointment of such successor or successors, or if any such successor or successors shall refuse or neglect to receive the same when offered or tendered to him or them by his or their predecessor or predecessors in office, then and in every such case, every such person so offending shall, for every such offence, on being convicted thereof before any two justices of the peace for the county, city, or place, where the offence shall be committed, on the oath of any credible witness (which oath such justices are hereby empowered and required to administer), or on the voluntary confession of the party or parties, forfeit and pay a sum not exceeding five pounds, to be recovered by distress and sale of the goods and chattels of the offender or offenders, by warrant under the hands and seals of the justices before whom the offender or offenders shall be convicted, and the overplus (if any) of the money arising by such distress and sale shall be returned upon demand to the owner or owners of such goods and chattels, after deducting the costs and charges of making, keeping, and selling such distress; and such penalties and forfeitures shall be applied for the use of the poor of the parish, township, or place, for which such offender or offenders shall be overseer or overseers; and in case sufficient distress cannot be found, or such penalties and forfeitures shall not be paid forthwith, it shall and may be lawful to and for such justices, by warrant under their hands and seals, and they are hereby required to commit every such offender to the common gaol or house of correction of the county, city, or place, where the offence shall be committed, there to remain without bail or mainprize, for any time not exceeding one calendar month, unless such penalties and forfeitures shall be sooner paid or satisfied.

Books may be inspected, and shall be deemed evidence.

III. It shall and may be lawful for any person or persons, at all seasonable hours, to inspect such book or books in the hands of the said overseer or overseers, and to take a copy of such entry in such book or books, upon payment of the sum of sixpence, except in case of any of His Majesty's justices of the peace acting in and for the said county, who shall be entitled at all such time to inspect such book *gratis*; and every such book shall be and be deemed to be sufficient evidence in all courts of law whatsoever, in proof of the existence of such indentures, and also of the several particulars specified in the said register respecting such indentures, in case it shall be proved to the satisfaction of such court that the said indentures are lost or have been destroyed.

IV. The justices of the peace before whom any person shall

FORM of the REGISTER.

Number.	Date of Indenture.	Name of the Apprentice.	Sex.	Age.	His or her Parents' Names.	Their Residence.	Name of Persons to whom bound or assigned, as the case may be.	His or her Trade.	His or her Residence.	Term of the Apprenticeship or Assignment.	Apprentice or Assignment Fee.	Overseers Parties to the Indenture or Assignment.	Magistrates assenting.
													(to be signed by themselves.)

42 GEO. III. CHAP. 90.

AN ACT for amending the Laws relating to the Militia in England,
and for augmenting the Militia.

[26th June, 1802.]

* * * * *

CLVIII. In every county, riding, or place, in which the full number of men required by or in pursuance of any of the provisions of this Act, as the quota of such county, riding, or place, shall not be raised and completed within six months after the passing of this Act, or after the same shall have been fixed and established by any subsequent order of His Majesty in council as hereinbefore directed, then and in every such case the sum of ten pounds shall be annually paid for and in lieu of every private militia man less than the quota of such county, riding, or place, who shall not have been raised within the time limited by this Act; and the justices of the peace and magistrates of every such county, riding, and place, assembled at the general or quarter sessions of the peace to be held next after the expiration of the said six months shall, upon the receipt of the certificate of the lieutenant or three deputy lieutenants, which certificate he and they is and are hereby required to transmit to the clerk of the peace for such county, riding, or place, in order to be laid before the said justices and magistrates respectively at such sessions, rate and assess the said sum of ten pounds per man as aforesaid, upon every such county, riding, or place; and in case at any future time the number of men required to be provided for the militia of any county, riding, or place, according to the several provisions of this Act, shall not be provided within three calendar months after the lieutenant or any of three deputy lieutenants shall have had notice from or by the order of the commanding officer of any regiment, battalion, or corps of such militia of any such deficiency, then and in every such case the justices and magistrates as aforesaid, assembled at the next general or quarter sessions of the peace holden for the county, riding, or place, after such deficiency shall have been made known to them by the lieutenant or deputy lieutenants as aforesaid, shall rate and assess the like sum of ten pounds for every man so deficient as aforesaid, upon every county, riding, or place.

Where quota of any county, &c. shall not be raised, 10%. to be annually paid for each man deficient, for which the sessions shall make an assessment.

CLIX. The justices and magistrates aforesaid, in making any such rate and assessment upon the whole of any county, riding, or place, shall apportion the sums so to be assessed as aforesaid, and rate and assess the same upon the several parishes and tythings in such county, riding, or place, in the same proportions in which the men for the militia are required to be raised by such parishes and tythings respectively, according to such appointment as may have been made thereof in pursuance of this Act, or to the

Such assessments shall be made on each parish proportionally.

last apportionment that shall have been made of men to be raised by each parish and tything.

When deficiency shall arise in any particular places, assessment shall be made thereon.

CLX. When in any county, riding, or place, such deficiency of men shall arise from the default of any particular parish or tything, or parishes or tythings in such county, riding, or place, in not raising the proportion or respective proportions of men required to be raised by any such parish or tything, or parishes or tythings, then and in such cases the said justices and magistrates, in making such rate and assessment as aforesaid, shall rate and assess all and every such sum and sums of money upon such parish or tything, or parishes or tythings, that shall have so made default as aforesaid, in proportion to the number of men by which each of such parishes or tythings shall fall short of the number of men required to be raised therein.

Justices shall transmit amount of assessments to county treasurer; and he shall give notice to the overseers, who shall pay the money out of the poor rates.

CLXI. The justices and magistrates of the several counties, ridings, and places, where any such rate and assessment shall be made as aforesaid, shall, immediately after the making of any such rate and assessment as aforesaid, transmit or cause to be transmitted the several amounts of the sums so assessed upon the several parishes and tythings, to the treasurer or treasurers of such county, riding, or place; and such treasurer or treasurers shall, as soon as conveniently may be, cause notice thereof to be given to the respective overseers of the poor of the several parishes and tythings upon which any such rate or assessment shall have been made as aforesaid; and such overseers shall, within fourteen days after such notice as aforesaid of such rate or assessment, pay the amount of the rate or assessment made upon their respective parishes or tythings, out of any money in their or any of their hands, of the rates for the relief of the poor; and if they or any of them shall not have sufficient of such money for that purpose, then such overseers shall, and they are hereby required to make a rate sufficient to satisfy such rate and assessment; and it shall be lawful for the said overseers to levy and collect the same in such manner as rates made for the relief of the poor, or any other rates made for the purposes of this Act may be levied and collected.

County treasurer shall retain such money three months, and pay thereout bounties to volunteers raised by deputy lieutenants, and the balance to the receiver general of the county.

CLXII. The treasurer or treasurers receiving any such sum or sums of money shall retain such sum or sums of money in his or their hands for three calendar months after the receipt thereof; and during the said period of three months it shall be lawful for any deputy lieutenant of the subdivision of the said county, riding, or place within which such parish, tything, or place shall be situate, to raise any volunteer or volunteers for such militia, in lieu of such man or men as shall be so deficient as aforesaid, and to agree with every such volunteer for a bounty not exceeding the sum of ten pounds; and the deputy lieutenant before whom any such volunteer shall be duly examined, approved, sworn and enrolled to serve in the militia, shall make an order upon such treasurer or treasurers for the payment of

such bounty; and upon the production to such treasurer or treasurers of a certificate under the hands of such deputy lieutenants as aforesaid, of any such volunteer having been duly examined, approved, sworn and enrolled to serve in the militia, and of such order for the payment of such bounty as aforesaid, and of a certificate under the hands of the commanding officer of any regiment, battalion, or corps of militia of such county, riding, or place, of such man having joined his regiment, battalion, or corps, such treasurer or treasurers shall, and he and they is and are hereby respectively required to pay out of such money in his or their hands as aforesaid, any sum of money not exceeding the said sum of ten pounds for each of such volunteers as aforesaid; and such treasurer or treasurers shall, at the expiration of three months after the receipt of such money as aforesaid, pay all sums of money as may have come into his or their hands, for and on account of any such fines as aforesaid, and as shall not have been paid for and on account of any such volunteer as aforesaid, in manner herein directed, to the receiver general of such county, riding or place, to be applied and disposed of in like manner as directed by this Act.

CLXIII. "And whereas there are several cities, towns, and places, which do not contribute to the payment of the said rate, called the county rate, and doubts may arise whether such cities, towns, and places can be legally rated or assessed towards the payment of the rate or assessment to be laid in pursuance of this Act:" Be it therefore enacted, that in all cases where the militia shall not be raised within any city, town, or place, not rated to the county rate, the proportion of the said sum of ten pounds per man to be borne by such city, town, or place, shall be raised, levied, and collected within such city, town, or place, by a separate rate or assessment, in like manner, by the overseers of the poor, and by such and the like ways and means as the rates for the relief of the poor can or may be raised, levied, and collected; and such overseers of the poor shall, from time to time, pay over the same to the treasurer of the county, riding, or place, with which such city, town, or place shall be joined or united, for the purpose of raising the militia.

CLXIV. "And whereas there [are] some towns which lie in two counties or ridings, and doubts may arise whether such towns are obliged to pay to both counties or ridings towards raising the said money:" Be it therefore further enacted, that where any town lies in two counties or ridings, or part thereof in a county and part in a riding, the proportion of the said money to be paid for such town, in lieu of raising the militia as aforesaid, shall be paid to the treasurer of the county or riding wherein the church of such town is situate.

CLXV. If any sum of money which ought to be paid by any city, town, or place, not rated to the county rate as aforesaid,

In places where there are no county rates, the assessments shall be raised as poor rates, and paid by the overseers to the treasurer of the county.

Where a town lies in two counties, assessments shall be paid where the church stands.

If such assessment be not

paid before
June 1, yearly,
it may be
levied by the
next quarter
sessions on the
overseers.

shall not be paid to the treasurer of the county, riding, or place as aforesaid, before the first day of June in every year, the justices of the peace for such county, riding, or place shall, at their next Midsummer quarter sessions, and they are hereby required (by their warrant, directed to any constable or tythingman of every such parish and division) to cause the sum due from such parish under this Act, by reason of such men not being raised as aforesaid, to be levied by distress and sale of the goods and chattels of the respective overseers of the poor of every such parish and division, rendering the overplus (if any) to the owners of such goods and chattels, after such money and the reasonable charges attending such distress and sale shall be fully paid and satisfied; and all such overseers of the poor shall be reimbursed the money so levied on them respectively, by the same ways and means as overseers of the poor are reimbursed the money by them expended for the relief the poor by the laws now in being, and may make a rate for that purpose if necessary.

When assessment is paid to receiver general, the place shall be indemnified for not raising its quota that year.

CLXVI. Every receiver general of the rates and duties under the management of the commissioners for the affairs of taxes, to whom any such money shall be paid, shall give a receipt for such money to the person or persons paying the same, which receipt shall be a sufficient discharge for such payment; and that when the whole sum directed to be raised in any county, riding, or place as aforesaid, shall be paid into the hands of the receiver general, in pursuance of this Act, such payment shall be a full discharge and indemnification to such county, riding, or place, for the failure or neglect in raising and training the number of men of the militia for the year in respect whereof such payment shall be made; and every such receiver general shall, within seven days after the receipt of any such money, certify such receipt to the lord high treasurer or commissioners of His Majesty's treasury, and forthwith pay the same into the receipt of His Majesty's exchequer at Westminster; and the money so paid into the exchequer shall be kept separate and apart from all other money, and shall be accounted for yearly to parliament, and disposed of as parliament shall direct; and no fee or gratuity whatsoever shall be given or paid to any officer of the exchequer, for or on account of receiving or issuing any such money; and the high treasurer or the commissioners of the treasury, or any three or more of them, is and are hereby authorized to allow to the receiver general of any such county or place, upon the clearing of his accounts, such salary or reward for his pains and trouble in receiving and paying in such money, as the said high treasurer or commissioners shall think proper, not exceeding twopence in the pound for so much money as he shall pay into the exchequer in pursuance of this Act.

Such payments shall be certified to the treasury, and the money paid into the exchequer, and disposed of by Parliament.

Allowance to receiver general.

Allowance to

CLXVII. Provided always, that the treasurer of every county,

riding, or place in which any such money shall be raised as county treasurer, shall be allowed for his pains and trouble the sum of ^{county treasurer, high constable, &c.} one penny in the pound, upon the whole sum so by him received and paid; which allowance every such treasurer is hereby authorized to detain in his hands out of the money so received by him, before payment made to the receiver general as aforesaid; and every high constable, petty constable, churchwarden and overseer of the poor, who shall act in raising and collecting of the said money, shall respectively be allowed and paid by such treasurer, as a recompense for their trouble therein, the sum of one penny in the pound of all such money, in the raising and collecting whereof they shall respectively act as aforesaid; and such treasurer is hereby authorized and required to deduct the same out of the money so received by him as aforesaid, and to pay the respective proportions thereof to such high constables or other officers aforesaid.

* * * * *

CLXXIV. No sergeant, corporal, or drummer of the militia, ^{Sergeants, &c.} nor any private man, from the time of his enrolment until he ^{or men, not} shall be regularly discharged from the militia, shall be compelled ^{liable to serve} to serve as a peace officer or parish officer, ^{as peace officers.}

* * * * *

43 GEO. III. CHAP. 61.

AN ACT for the Relief of Soldiers, Sailors, and Marines, and of the Wives of Soldiers, in the Cases therein mentioned, so far as relates to England. [24th June, 1803.]

“WHEREAS soldiers and marines, and sailors, or persons discharged from being such, having occasion to return to their respective homes or places of legal settlement in England, which are frequently at a considerable distance, are under the necessity of soliciting alms for their relief: And whereas by such soliciting they have been, by and under an Act of the thirty-second year ^{32 Geo. III.} of His present Majesty, intituled, ‘An Act to explain and ^{c. 45.} amend an Act, made in the seventeenth Year of the Reign of his late Majesty King George the Second, intituled, An Act to amend and make more effectual the Laws relating to Rogues, Vagabonds, and other idle and disorderly Persons and to Houses of Correction,’ deemed rogues and vagabonds, within the meaning of the said Act of the seventeenth year of his late Majesty King George the Second, and liable to be punished accordingly:” For remedy thereof, may it please your Majesty

Every soldier or sailor, on carrying his discharge within three days to the nearest chief magistrate, shall receive a certificate of his settlement, on producing which, being in his route, he shall not, for asking relief, be deemed a vagabond.

that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that every soldier or marine duly discharged out of any regiment, and every sailor duly discharged out of any ship or vessel belonging to His Majesty's navy, carrying his discharge by the third day at the latest from the date thereof, to the mayor or chief magistrate of the city, town, port, or corporate place, nearest to or within fifteen miles from the place where he shall have received his discharge, shall receive from such mayor or chief magistrate a certificate under his hand, stating the place to which the person so discharged is desirous of going, being his home or place of legal settlement, together with the time to be fixed, not exceeding ten days for every one hundred miles, and so in proportion, except for a reasonable cause to be expressed in such certificate; and such person having and producing to such persons as shall lawfully demand to see the same such discharge, and such certificate as aforesaid, and being in his route accordingly, both as to time and road, shall not by reason of asking relief be deemed to be a rogue or vagabond within the meaning of the said Acts, or either of them: Provided always, that every such discharge shall bear the true date, both as to the time when and the place where it was given, and shall express the sum or sums, if any, which were paid to such soldier or sailor at such time and place (a).

II. "And whereas it frequently happens that where regiments are ordered upon foreign service, the wives of non-commissioned officers and soldiers being with their husbands are not permitted to embark, and having thereupon the like occasion to return to their homes or places of legal settlement, are under the like necessity of soliciting alms, and it is expedient that they also should be declared free and exempt from the fines and penalties of the said Act;" Be it further enacted, that the wife of any non-commissioned officer or soldier ordered for foreign service, making due proof of her not being permitted to embark with her husband, before the mayor or chief magistrate of the city, town, port, or corporate place, nearest to or within fifteen miles from the place at which the regiment to which the said non-commissioned officer or soldier belongs is ordered to embark, or of any other city, town, port, or corporate place, at which the said regiment shall happen to be on its march under orders for embarkation, shall receive from such mayor or chief magistrate a certificate under his hand, and the corporate seal of such city, town, port, or place, stating the place to which she is desirous of going, being her home, or place of legal settlement, together with the time to be fixed, not exceeding ten days for every one hundred miles, and so in proportion, except for a

(a) See 5 Geo. 4, c. 83, s. 16.

reasonable cause to be expressed in such certificate ; and such person having, and producing to such person as shall lawfully demand the same, such certificate, and being in her route accordingly both as to time and road, shall not, by reason of asking relief, be deemed to be a rogue or vagabond within the meaning of the said Acts, or either of them.

III. In case of accident or sickness duly proved, which shall prevent the person having such certificate from proceeding on his or her journey, according to the terms prescribed therein, it shall and may be lawful to and for the chief magistrate of any other city, town, port, or corporate place where such person shall be, or shall arrive, to grant a new certificate, stating therein the true reasons for granting the same, and containing the like provisions as are hereinbefore described, and annex the same to the former certificate

New certificates in case of accident or sickness.

IV. Certificates or passes granted as heretofore from the office of Admiralty or War-office to discharged sailors, soldiers, or marines, or to the families of sailors, soldiers, or marines serving abroad, or lately deceased, to carry them to their respective homes, shall have the same effect and force to all intents and purposes whatever as the certificates herein permitted to be given by the magistrate as aforesaid ; and that the terms of the same may be extended in each instance which shall appear to require it by a new certificate from another magistrate in manner hereinbefore mentioned.

Passes from Admiralty or War-office shall have the same effect as heretofore.

43 GEO. III. CHAP. 99.

AN ACT for consolidating certain of the Provisions contained in any Act or Acts relating to the Duties under the Management of the Commissioners for the Affairs of Taxes, and for amending the same. [27th July, 1803.]

* * * * *

XIV. Provided always, that if any two or more of the inhabitants of the district or place for which a collector or collectors may be named as aforesaid, being respectively charged to any of the said duties to be assessed under the regulations of this Act, or the churchwardens or overseers, or guardians of the poor of any description, or any two or more of them, or the select vestry, or any seven or more of them, where a select vestry shall be authorized to act for any parish or place, shall require security to be taken of the collector or collectors to be

Inhabitants, &c. of parishes may require security to be taken from collectors, and name persons willing to give such security.

In which case no collectors shall be appointed without security.

appointed for the parish or place on behalf of which such application shall be made, and shall name a fit and proper person or persons to be a collector or collectors who respectively are willing to give such security, it shall not be lawful for such commissioners to appoint collectors for such duties, or any of them, until such security be given ; and if the person or persons returned to the said commissioners according to this Act to be a collector or collectors, shall not have given or shall not give such security, then it shall be lawful for such commissioners to appoint such persons and no others, who shall have been named to them by the persons respectively before mentioned, as fit and proper persons to be collectors, and who will give such security as shall be required.

Within the bills of mortality, &c. appointment of collectors shall belong to the resident commissioners,

XV. Within the bills of mortality, the parishes of Saint Mary-le-Bone and Saint Pancras, in the county of Middlesex, the appointment of the collectors of such duties as aforesaid, shall belong wholly to such of the commissioners for executing this Act who shall reside in the wards or parishes for which such collectors respectively are to be appointed, in case there shall be two or more commissioners there resident, and no other commissioner shall in such case interfere ; and it shall be lawful for such commissioners residing within the respective wards or parishes aforesaid to appoint two or more persons to be collectors, who shall have given such security as aforesaid, whether such persons shall have been presented by the assessors as aforesaid, or named by the inhabitants, or churchwardens and overseers or guardians of the poor, or any two or more of them, or any seven or more of the vestry where a select vestry shall be appointed as aforesaid, and who shall be thought by such commissioners to be of ability to execute the office of collector ; and that in default of presenting or naming such persons who shall be willing to give such security, then the said commissioners residing as aforesaid shall name such persons as they shall think of ability to execute the said office : Provided always, that where two or more commissioners shall not be resident in any such ward or parish as aforesaid, for which collectors are to be appointed, then a commissioner or commissioners residing in any adjacent ward or parish in the same county or city, may appoint or concur with a commissioner so residing, in the appointment of such collectors ; and every person appointed a collector in pursuance of this Act, shall also, by virtue of such appointment, act as an assessor for the same parish, ward, or place.

or, in default of resident commissioners, to commissioners of adjacent parish.

Collectors shall act as assessors.

* * * * *

Collectors, when required by churchwardens, &c. shall deliver a statement of

XLII. Provided always, that the collector or collectors appointed for any parish, ward, or place as aforesaid, when required so to do by the churchwardens and overseers or guardians of the poor, or any two of them, or the select vestry as aforesaid, or any seven of them, shall deliver to them respec-

tively an account in writing of the sums received by such collector or collectors, and of the sums in arrear, and of the sums remaining in his or their hands, and also of the sums paid to the receiver general; and if any collector shall refuse or neglect so to do within fourteen days after such demand shall be made, he shall forfeit and pay to the use of the poor of such parish or place where such collector shall reside, the sum of twenty pounds.

* * * * *

43 GEO. III. CHAP. 161.

AN ACT for repealing the several Duties under the Management of the Commissioners for the Affairs of Taxes, and granting new Duties in lieu thereof; * * [12th August, 1803.]

* * * * *

XVI. "And for the better information of the commissioners appointed to carry this Act into execution, and of the surveyors and persons to be appointed assessors as aforesaid, and the better to enable them to perform their duty;" Be it further enacted, that the said commissioners, or any two or more of them, and the said surveyors, inspectors, and assessors, or any one or more of them, or any person or persons authorized by them, or any of them, shall have liberty from time to time, and at all seasonable times, to inspect and to take copies or extracts from any book or books kept by any parish officer or officers, or other person or persons, of or concerning the rates made for the relief of the poor, or any other public taxes, rates, or assessments, or any contributions under the management of the kirk sessions in the respective parts of Great Britain aforesaid, in any place within the limits for which they shall be appointed; and if any person or persons, in whose custody or power any of the said books shall be, shall refuse or neglect to permit the said inspection, or the copies or extracts to be made as aforesaid, or to attend the said commissioners with their books when required so to do, then and in every such case, every person who shall so refuse or neglect, shall for every such offence forfeit and pay any sum not exceeding ten pounds (a).

* * * * *

(a) See 48 Geo. 3, c. 55, s. 2; and 14 & 15 Vict. c. 36, relating to the assessed taxes. See also 32 & 33 Vict. c. 67, s. 77, and Schedule 6, as regards the Metropolis.

44 GEO. III. CHAP. 13.

AN ACT to prevent the Desertion and Escape of Petty Officers, Seamen, and others, from His Majesty's Service by Means or under Colour of any Civil or Criminal Process.

[15th December, 1803.]

“ WHEREAS many petty officers and seamen belonging to His Majesty's navy, and divers persons who have either voluntarily entered into, or been duly impressed to serve in His Majesty's navy, have of late years been taken out of His Majesty's service by means of arrests and detainers, as well both for real and pretended debts or causes of action, as also upon charges or accusations for alleged criminal offences ; and such petty officers, seamen, and other persons as aforesaid, have been thereupon discharged out of custody, either by due course of law, or by the consent of the persons at whose suit or on whose complaint they had been so arrested, apprehended, or detained, with intent to enable them, and they have been thereby oftentimes enabled to desert and escape from His Majesty's said service, to the great prejudice and detriment of the said service ;” For remedy whereof, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this Act, whenever any petty officer or seamen belonging to His Majesty's navy, or any person who shall have voluntarily entered into or been impressed to serve in His Majesty's navy, shall be arrested, apprehended, or taken in execution by any sheriff or sheriffs, or other officer or officers, either upon or by virtue of any mesne or other writ or process whatsoever, or upon or by virtue of any warrant for any alleged criminal offence, and shall be thereby taken from or out of His Majesty's sea service, or from or out of any ship or vessel appointed for receiving volunteers and impressed men to serve in His Majesty's navy, or from or out of the custody of any officer of the impress or other officer in His Majesty's sea service, with whom any such person as aforesaid shall have voluntarily agreed to enter into, or by whom any such person as aforesaid shall have been impressed to serve in, His Majesty's navy, or who shall have the custody or charge of any such person as aforesaid, the sheriff or sheriffs, gaoler or gaolers, or other officer or officers, who shall have arrested or apprehended any such petty officer, seaman, or other person as aforesaid, or in whose custody any such petty officer, seaman, or other person as aforesaid, shall happen to be, by way of detainer upon or by virtue of any such writ, process, warrant, charge, or accusation, or upon or by virtue of the

Petty officers or seamen taken out of His Majesty's naval service for any civil or criminal matter shall be kept in custody after they are entitled to be discharged from the writ or judgment, and shall be conveyed and delivered to some commander or commissioned officer of the navy, to serve on board the fleet.

judgment or sentence of any court, shall not discharge any such petty officer, seaman, or other person as aforesaid, out of his or their custody, either upon payment or satisfaction of the debt or debts, cause or causes of action, or for want of prosecution for, or upon acquittal of, the charge or accusation, charges or accusations, upon which any such petty officer, seaman, or other person as aforesaid, shall be in custody as aforesaid, or by consent of the person or persons at whose suit, or on whose behalf, any such petty officer, seaman, or other person as aforesaid, shall have been arrested, apprehended, taken or detained, or upon giving bail, or any other security, or upon any undertaking either to appear to, or to answer or satisfy any such debt or debts, cause or causes of action, charge or accusation, charges or accusations; or in case of conviction for any criminal offence or offences after the expiration of any period or term for which any such petty officer, seaman, or other person as aforesaid may have been sentenced to be imprisoned, but shall detain and keep every such petty officer, seaman, and other person as aforesaid, in his or their custody, and shall thereupon forthwith, and as soon as every such petty officer, seaman, or other person as aforesaid, would be entitled to be discharged out of custody, with respect to any such writ, process, or warrant, or with respect to any such debt or debts, cause or causes of action, charge or charges, accusation or accusations, judgment or sentence, with all convenient speed, safely and securely conduct and convey, and safely and securely deliver every such petty officer, seaman, and other person as aforesaid, either unto the commander-in-chief of some of His Majesty's ships, or unto some commissioned officer of the navy, being authorized and empowered to raise seamen for His Majesty's service, or unto some principal officer employed in regulating the service of raising men for His Majesty's fleet, whichever shall be at or nearest to the place where any such petty officer, seaman, or other person as aforesaid shall then happen to be; in order that every such petty officer, seaman, or other person as aforesaid, may be detained and kept to serve on board His Majesty's fleet, as before they were liable to do; and such commander in chief, officer of the impress, or principal regulating officer as aforesaid, shall thereupon give and deliver to such sheriff or sheriffs, gaoler or gaolers, or other officer or officers as aforesaid, a certificate, directed to the treasurer of His Majesty's navy, specifying the receipt of every such petty officer, seaman, or other person as aforesaid as shall be so delivered to him respectively as aforesaid, and the places from and to which any such petty officer, seaman, or other person as aforesaid, shall have been conducted and conveyed as aforesaid; and the sheriff or sheriffs, gaoler or gaolers, or other officer or officers, who shall have so conducted, conveyed, and delivered as aforesaid any such petty officer, seaman, or other person as aforesaid, shall thereupon be entitled to receive of and from the said treasurer of His Majesty's navy the sum of two shillings per mile, and no more, for conducting,

How sheriff,
&c. shall be
paid for con-
ducting them
2s. per mile.

conveying, and delivering as aforesaid, every such petty officer, seaman, or other person as aforesaid, upon production to the said treasurer of the navy of such certificate (a).

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48 GEO. III. CHAP. 55.

AN Act for Repealing the Duties of Assessed Taxes, and granting new Duties in lieu thereof, and certain additional Duties to be consolidated therewith; * * * [1st June, 1808.]

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SCHEDULE (B).

Exemptions.

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Hospitals, &c. Case IV.—Any hospital, charity school, or house provided for the reception or relief of poor persons.

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48 GEO. III. CHAP. 75.

AN Act for providing suitable Interment in Churchyards or Parochial Burying Grounds in England, for such dead Human Bodies as may be cast on Shore from the Sea, in Cases of Wreck or otherwise (c).

[18th June, 1808.]

“WHEREAS no provision hath yet been made by the laws now in force for providing suitable interment in churchyards or parochial burying grounds for such dead human bodies as may be cast on shore from the sea by wreck or otherwise, in that part of the United Kingdom called England: And whereas it is expedient that provision should be made for the decent interment of such bodies:” May it therefore please your Majesty that it may be enacted, and be it enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this Act the churchwarden and churchwardens, overseer and overseers of the poor for the time

(a) See 11 Geo. 4, c. 20.

(c) See also 7j & 8 Vict. c. 101,

(b) See 14 & 15 Vict. c. 36, s. 2. s. 31.

being of the respective parishes throughout England, in which any dead human body or dead human bodies, shall be found thrown in or cast on shore from the sea, by wreck or otherwise, shall, and he and they is and are hereby required, upon notice to him or them given that any such body or bodies are thrown in or cast on shore by the sea, and is or are lying within the bounds of the parish for which he or they shall be churchwarden or churchwardens, overseer or overseers of the poor, to cause the same to be forthwith removed to some convenient place, and with all convenient speed to cause such body or bodies to be decently interred in the churchyard or burial ground of such parish, so that the expenses attending on such burial do not exceed the sum which at that time is allowed in such parish for the burial of any person or persons buried at the expense of such parish: Provided always, that in case any such body or bodies shall be thrown in or cast on shore from the sea in any extra-parochial place (*d*) where there is no churchwarden or churchwardens, overseer or overseers of the poor, then and in every such case the constable or headborough of such place shall, on notice being given to him that such body or bodies is or are lying in such extra-parochial place, forthwith cause such body or bodies to be removed to some convenient place, and with all convenient speed cause the same to be buried in such and the like manner as the churchwardens and overseers within England are hereby required to bury such body or bodies.

Churchwardens, &c. of the place where any dead body shall be cast on shore shall cause the same to be removed and interred.

II. Every minister, parish clerk, and sexton of such respective parishes shall perform their several and respective duties in such and the like manner as is customary in other funerals, and shall admit of such body or bodies being interred in such churchyards or burial grounds without any improper loss of time, receiving for the same, by way of compensation, such and the like sums as in cases of burials made at the expense of such parishes.

Minister of the parish shall perform the funeral service, &c.

III. In case any person or persons shall find any such body or bodies cast on shore from the sea by wreck or otherwise, and shall within six hours thereafter give notice thereof to some one of the churchwardens or overseers of the poor of the parish for the time being, in which such body or bodies shall be found, or to the constable or headborough for the time being, in case such body or bodies shall be found in any extra-parochial place, or cause such notice to be left at his or their last or usual place or places of abode, then and in every such case such person or persons shall receive the sum of five shillings for his, her, or their trouble, such sum to be forthwith paid to the person or persons first giving such notice only; but nevertheless that no greater sum than five shillings shall be paid for any one notice, although there may be a greater number of such bodies than one.

Reward of 5s. to persons giving notice to parish officers of bodies cast on shore.

Penalty of 5*l.*
on persons
finding dead
bodies and not
giving notice.

IV. Provided always, that in case any person or persons shall find any such body or bodies cast on shore from the sea by wreck or otherwise, and shall not within six hours thereafter give notice to some one of the churchwardens or overseers of the poor of the parish for the time being in which such body or bodies shall be found, or to the constable or headborough for the time being, in case such body or bodies shall be found in any extra-parochial place, or cause such notice to be left at his or their last or usual place or places of abode, then and in every case such person or persons shall for every such offence forfeit and pay the sum of five pounds.

Expenses shall
be paid by
churchwar-
dens, &c.

V. All necessary and proper payments, costs, charges, and expenses which shall be made or incurred in or about the execution of this Act, shall be made and paid by the churchwarden or churchwardens, overseer or overseers, constable or headborough for the time being of such respective parishes and places as aforesaid.

Churchwar-
dens, &c. shall
be reimbursed
by treasurer of
the county, on
order of a
justice.

VI. "And, for the purpose of reimbursing him or them all such payments, costs, charges, and expenses," be it further enacted, that it shall and may be lawful to and for any one justice of the peace for the county or place within that part of the United Kingdom called England, in which any such body or bodies shall have been so removed and buried as aforesaid, by any writing under his hand, to order and direct the treasurer for such county to pay such sum or sums of money to such churchwarden and churchwardens, overseer and overseers, constable or headborough, for his or their costs and expenses in or about the execution of this Act (after the same shall have been duly verified on oath) as to the said justice shall seem reasonable and necessary; and such treasurer shall, and he is hereby authorized and required, forthwith to pay the sum or sums of money so ordered and directed to be paid to the person or persons empowered to receive the same; and such treasurer shall be allowed the same in his accounts.

Penalty on
parish officers
neglecting to
execute this
Act, 5*l.*

VII. Provided always, that in case any such churchwarden or churchwardens, overseer or overseers, constable or headborough, shall refuse or neglect to remove or cause to be removed such body or bodies from the sea-shore to some convenient place prior to the interment thereof, for the space of twelve hours after such notice given to him or them, or left in writing at his or their last or usual place or places of abode by any person or persons whomsoever, or shall neglect or refuse to perform the several other duties required of him and them by this Act, then and in every such case every such churchwarden or overseer, constable or headborough, shall for every such offence forfeit and pay the sum of five pounds.

VIII. All penalties and forfeitures which shall be incurred under this Act, if not paid on conviction, shall be levied and recovered by distress and sale of the goods and chattels of the offender or offenders, by warrant under the hand and seal of any justice of the peace for the county or place where the offence shall happen (which warrant such justice is hereby empowered to grant on the confession of the party, or upon the evidence of any credible witness upon oath), and the surplus of the money arising by such distress and sale shall be returned on demand to the owner of such goods and chattels, after deducting the costs and charges of making, keeping, and selling the distress; and such penalties and forfeitures, when recovered, shall be paid to the informer or informers; and in case sufficient distress shall not be found, or such penalties and forfeitures shall not be paid forthwith, it shall and may be lawful to and for such justice, and he is hereby authorized and required, by warrant under his hand and seal, to cause the offender or offenders to be committed to the common gaol or house of correction of such county or place, there to remain without bail or mainprize, for any time not exceeding two calendar months, nor less than fourteen days, unless such penalties and forfeitures, and all reasonable charges attending the recovery thereof, shall be sooner fully paid and satisfied.

Recovery and application of penalties.

IX. In all cases where any conviction shall be had for any offence or offences committed against this Act or against any order of sessions, or any matter in pursuance of this Act, the form of conviction shall be in the words or to the effect following; that is to say,

"BE it remembered, that on this	day of	Form of con-
"in the	year of the reign of	viction.
"convicted before	one of His Majesty's justices	
"of the peace for the	of having [as the offence shall	
"be], and I the said	do adjudge him [or them]	
"to forfeit and pay for the same the sum of	Given under	
"my hand and seal the day and year aforesaid."		

X. Provided always, that if any person or persons shall think himself, herself, or themselves aggrieved by any judgment or determination, or by any matter or thing done in pursuance of this Act, such person or persons may appeal to the justices of the peace at the first general or quarter sessions of the peace to be holden for the county or place (within which the matter of appeal shall arise) next after the expiration of one calendar month from the time such matter of appeal shall have arisen, the person or persons appealing having first given ten days' notice at least of his or their intention to bring such appeal, and of the matter thereof, to the person or persons so appealed

Appeal to the quarter sessions.

against, and forthwith after such notice entering into a recognizance before some justice of the peace for such county or place, with sufficient sureties conditioned to try such appeal and abide the order and award of the said court thereon; and the said justices at such sessions, upon due proof of such notice and recognizance having been given and entered into, are hereby authorized and required to hear and determine the matter of such appeal in a summary way, and to make such determination therein, and to award such costs to either of the parties, or otherwise, as they shall judge proper; and the said justices may, if they see cause, mitigate any fine, penalty, or forfeiture, and may also order such further satisfaction to be made to the party injured as they shall judge reasonable; and all such determinations of the said justices shall be final, binding, and conclusive upon all parties, to all intents and purposes whatsoever.

Proceedings
shall not be
quashed for
want of form.

XI. Where any distress shall be made for any sum of money to be levied by virtue of this Act, the distress itself shall not be deemed unlawful, nor the party or parties making the same be deemed a trespasser or trespassers on account of any defect or want of form in the information, summons, conviction, warrant of distress, or other proceedings relating thereto; nor shall the party or parties distrained be deemed a trespasser or trespassers *ab initio*, on account of any irregularity that shall be afterwards done by the party or parties so distraining, but the person or persons aggrieved by such irregularity shall and may recover full satisfaction for the special damage in an action upon the case.

Penalties, &c.
shall be paid
by persons in-
curring the
same, and not
by the parish.

XII. Provided always, that all penalties and expenses attendant thereon, which shall be incurred under the provisions of this Act, shall be paid and borne by the person or persons incurring the same, and that the parish or place wherein such person or persons ought to have acted in the duties prescribed by this Act shall be wholly exempted therefrom.

Lords of
manors, &c.
shall pay the
same fee as

XIII. "Whereas in cases of dead wrecks, wherein no living person is found, or owner known, the lords of manors on which any such dead body or dead bodies may be washed in, and who are entitled to wreck there, have usually paid a small fee for the placing such body or bodies in the ground in the state in which the same have been found, and such payments have been adduced and admitted as proof on trials at common law of the right of such lords of manors to wrecks in such manors;" Be it therefore enacted, that in all and every such cases it shall and may be lawful to and for all and every lord or lords of any manor or manors throughout England to pay or cause to be paid to the churchwarden or churchwardens, overseer or overseers, constable or headborough of such respective parishes and places as aforesaid, such and the like sums as he

or they was or were heretofore accustomed to pay for the placing any such body or bodies into the ground as aforesaid; such sums to go in part payment and discharge of the costs and expenses to be incurred in or about the execution of this Act, and credit to be given for the same by such overseers, churchwardens, constable or headborough, in their accounts with the county to which such accounts shall be submitted; anything in this Act to the contrary thereof in anywise notwithstanding.

heretofore on
interring dead
bodies, &c.

XIV. "And, for defraying the expenses of the removal and burial of such body or bodies as aforesaid, and all other expenses necessary for the execution of this Act;" Be it further enacted, that the justices of the peace at the general or quarter sessions may cause such sums of money as shall be necessary for all or any of the purposes aforesaid, to be raised in the same manner as rates are directed to be raised by an Act made in the twelfth year of the reign of his late Majesty King George the Second, intituled "An Act for the more easy assessing, collecting, and levying of County Rates."

Expenses of
interment
shall be raised
as county
rates under
12 Geo. II.
c. 29.

49 GEO. III. CHAP. 68.

AN ACT to explain and amend the Law of Bastardy, so far as relates to indemnifying Parishes in respect thereof (a).
[3rd June, 1809.]

* * * * *

III. "And whereas parishes are often put to great expense in enforcing the performance of orders of maintenance made on the filiation of bastard children;" Be it therefore further enacted, that if any reputed father or any mother of such bastard child or children, on whom any order of filiation or maintenance of such child or children shall have been made by the court of quarter sessions, or which shall have been made by two justices of the peace and confirmed by the court of quarter sessions, or against which no appeal shall have been made to the court of quarter sessions, shall neglect or refuse to pay any sum or sums of money which he or she shall have been ordered to pay towards the maintenance or other sustentation for the relief of any such bastard child or children by any such order, it shall be lawful for any justice of the peace of the county, riding, division, city, liberty, or town corporate in which such reputed father or such mother shall happen to be, and the said justice is hereby required, upon complaint made to him by any one of the overseers of the poor of any parish, township, or place

For maintenance of bastard children.

Father or mother neglecting to pay for maintenance of bastard according to order, may be apprehended and committed by one justice, for three months, or till payment.

(a) The whole of this Act, except of a bastard, is repealed by 24 & 25 s. 3, so far as it relates to a mother Vict. c. 101, s. 1.

liable to the maintenance or support of such bastard child or children, or where such bastard child or children shall then be, and upon proof on oath of such order for the payment of such sum or sums of money, and of such sum or sums of money being unpaid, and of a demand of such payment having been made, and a refusal to pay the same, or that such reputed father or such mother hath left his or her usual place of abode, and hath avoided a demand thereof being made by such overseer, to issue his warrant to apprehend such reputed father or such mother, and to bring him or her before such justice or any other justice of the peace of the same county, riding, division, city, liberty, or town corporate, to answer such complaint; and if such reputed father or such mother shall not pay such sum or sums of money as shall appear to the said justice before whom such reputed father or such mother shall be brought to be due and unpaid, or shall not show to such justice some reasonable and sufficient cause for not so doing, it shall be lawful for such justice, and the said justice is hereby required to commit such reputed father or such mother to the public house of correction or common gaol of the said county, to be there kept to hard labour for the space of three months, unless such reputed father or such mother shall, before the expiration of the said three months, pay or cause to be paid to one of the overseers of the poor of the parish, township, or place on whose behalf such complaint as aforesaid was made, the said sum or sums of money so due and unpaid as aforesaid, and so from time to time and as often as such reputed father or such mother shall in manner aforesaid neglect or refuse to pay any other sum or sums of money that shall afterwards become due by virtue of and under such order after the expiration of or discharge from any such former imprisonment as aforesaid.

* * * * *

49 GEO. III. CHAP. 124.

AN ACT for altering, amending, and explaining certain Acts relative to the Removal of the Poor, and for making Regulations in certain Cases touching the Examination of Paupers as to their Settlement; and for extending to all Parishes certain Rules and Orders in Workhouses, under an Act of the twenty-second Year of His present Majesty, intituled, “An Act for the better Relief and Employment of the Poor.” [20th June, 1809.]

35 Geo. III.
c. 101, s. 2.

“WHEREAS, by an Act passed in the thirty-fifth year of the reign of His present Majesty, intituled, ‘An Act to prevent the Removal of Poor Persons until they shall become actually Chargeable,’ it is amongst other things enacted, That in case

any poor person shall be brought before any justice or justices of the peace for the purpose of being removed from the place where he or she is inhabiting or sojourning, by virtue of any order of removal, or of being passed by virtue of any vagrant pass, and it shall appear to the said justice or justices that such poor person is unable to travel by reason of sickness or other infirmity, or that it would be dangerous for him or her so to do, the justice or justices making such order of removal or granting such vagrant pass, are required and authorized to suspend the execution of the same, until they are satisfied that it may safely be executed without danger to any person who is the subject thereof, and that the charges proved upon oath to have been incurred by such suspension of any order of removal may by the said justices be directed to be paid by the churchwardens and overseers of the parish or place to which such poor person is ordered to be removed, in case any removal shall take place, or in case of the death of such poor person before the execution of such order; and by the same Act it is further enacted, that in case of an appeal against any order for the payment of such charges, if the court of quarter sessions shall be of opinion that the sum so awarded be more than of right ought to have been directed to be paid, such court may and is hereby directed to strike out the sum contained in the said order, and insert the sum which in the judgment of such court ought to be paid; and in every such case the court of quarter sessions shall direct that the said order so amended shall be carried into execution by the said justices by whom the order was originally made, or either of them, or in case of the death of either of them, by such other justice or justices as the court shall direct: And whereas it is expedient that the power of putting an end to the suspensions of any such order of removal or pass, and of executing the several or other authorities aforesaid, should not be confined to the order of the justice or justices making such order or pass:" May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, That from and after the passing of this Act, in all cases where the execution of any order of removal or of any vagrant pass shall be hereafter suspended by virtue of the said recited Act, it shall be lawful for any other justice or justices of the peace of the county or other jurisdiction within which such removal or pass shall be made (a), to direct and order that the same shall be executed, and to direct the charges to be incurred as aforesaid to be paid (b), and to carry into execution any such

Where any order of removal, &c. shall be suspended, any justice for the place may order the same to be executed, &c.

(a) See 35 Geo. 3, c. 101, s. 2; 12 & 13 Vict. c. 45; *Id.* c. 65; 4 & 5 Will. 4, c. 76, s. 84; 9 & 10 14 & 15 Vict. c. 105, s. 10.

Vict. c. 66, s. 4; 11 & 12 Vict. c. 13; (b) See 30 & 31 Vict. c. 106, ss. 25, 26.

amended orders as aforesaid, as fully and effectually to all intents and purposes as the said respective powers and authorities can or may be executed by the said justices who shall make any such order of removal, or by the justice who shall grant any such pass as aforesaid.

How time of II. When the execution of any such order of removal shall appealing shall be suspended, the time of appealing against such order shall be computed. be computed according to the rules which govern other like cases from the time of serving such order and not from the time of making such removal under and by virtue of the same (*a*).

(*a*) See 35 Geo. 3, c. 101, s. 2; c. 31; 12 & 13 Vict. c. 45; *Id.* c. and 4 & 5 Will. 4, c. 76, s. 84; 9 & 65; 14 & 15 Vict. c. 105, s. 10. 10 Vict. c. 66, s. 4; 11 & 12 Vict.

SUSPENDED ORDER OF REMOVAL.

Decisions on
sect. 1.

A wife and children removed under a suspended order, without the suspension being taken off, is no reason for the sessions to quash that order on appeal, or to quash another order for payment of the expenses of the suspension: *Rex v. Englefield*, 13 East, 317.

An objection that a pauper is irremovable, should be taken on appeal, and not when the justices make their order for costs of maintenance under 49 Geo. 3, c. 124, s. 1: *Ex parte Williams*, 22 L. J. M. C. 125.

Where there is no appeal against a justices' order for costs of a suspended order of removal, the justices are bound to enforce it, and if they refuse, *mandamus* for a distress warrant will lie: *Reg. v. York N. R. JJ.*, 6 L. T. (N. S.) 351.

TIME FOR APPEAL.

Decisions on
sect. 2.

The power given by 35 Geo. 3, c. 101, s. 2, is confined to two cases only; the death or removal of the pauper: *Rex v. Chagford*, 4 B. & Ald. 235.

Where the service of original orders of removal and suspension was defective, and the paupers were removed some years afterwards, and an appeal lodged, held that it was in time, notwithstanding 49 Geo. 3, c. 124, s. 2: *Rex v. Alnwick*, 5 B. & Ald. 184.

In November, 1860, an order was made for the removal of J. G. and wife from J. to S. This order was suspended and not appealed against. J. G. died in J. in 1861, and his wife continued to reside in J. till her death in 1867. On 13th June, 1862, she became irremovable by virtue of 9 & 10 Vict. c. 66. On 25th March, 1866, she became irremovable under 28 & 29 Vict. c. 79. The relief had been repaid to J. down to the death of J. G. On 30th May, 1867, an order, confirmed on appeal, was made against S. for costs incurred by reason of the suspension of the order from 13th June, 1862, to 25th March, 1866. This order was held good, because under 35 Geo. 3, c. 101, and 49 Geo. 3, c. 124, the order of removal was suspended till the justices were satisfied that it might safely be executed without damage to any person the subject of it; and the wife being such a person, no order for costs could be made until her death or the execution of the order: *Reg. v. Sculcoates*, 19 L. T. (N. S.) 315; L. R. 4 Q. B. 32; 38 L. J. M. C. 33.

III. "And, in order to avoid any pretence for forcibly separating husband and wife, or other persons nearly connected with or related to each other, and who are living together as one family at the time of any order of removal made or vagrant pass granted during the dangerous sickness or other infirmity of any one or more of such family, on whose account the execution of such order of removal or vagrant pass is suspended" (b): Be it further enacted and declared, that where any order of removal or vagrant pass shall be suspended by virtue of this or of the said recited Act, on account of the dangerous sickness or other infirmity of any person or persons thereby directed to be removed or passed, the execution of such order of removal or vagrant pass shall also be suspended for the same period with respect to every other person named therein, who was actually of the same household or family of such sick or infirm person or persons at the time of such order of removal made or vagrant pass granted.

Order of removal suspended in case of sickness, may be extended to other persons of the family.

IV. Whenever it shall happen that any pauper is by age, illness, or infirmity unable to be brought up to the petty sessions to be examined as to his or her settlement, it shall be lawful for any one magistrate acting for the district where such pauper shall be, to take the examination of the said pauper, and to report the same to any other magistrate or magistrates acting for the said district, and for the said magistrates upon such report to adjudge the settlement of the said pauper, and make and suspend the order of removal, as fully and effectually to all intents and purposes as if the said pauper had appeared before two magistrates (c).

One magistrate may examine an infirm pauper as to his settlement, and report to petty sessions.

* * * * *

(b) See 11 & 12 Vict. c. 111.

(c) See 11 & 12 Vict. c. 31, s. 1.

COSTS.

A pauper settled in O., met with an accident while resident in M., and was relieved by M. Being incapable of removal, an order was obtained and suspended, and it was held that under 35 Geo. 3, c. 101, s. 2, O. was liable to the expenses incurred by M. after the order: *Rex v. Oldland*, 4 A. & E. 929.

Decision on sect. 2.

EXAMINATION OF WITNESS UNABLE TO TRAVEL.

Where there are proceedings pending at sessions on an order of removal, and a material witness is unable to travel, but in a fit state to be examined, the court has no power to make an order for his examination to be taken for the purpose of being used in such proceedings: *Ex parte Kimbolton*, 5 L. T. (N. S.) 347.

Decision on sect. 4.

51 GEO. III. CHAP. 80.

AN ACT to render valid certain Indentures for the binding of Parish Apprentices (*a*).

[15th June, 1811.]

43 Eliz. c. 2,
s. 1.

“ WHEREAS by an Act passed in the forty-third year of the reign of her late Majesty Queen Elizabeth, intituled, ‘An Act for the Relief of the Poor,’ it is enacted that the churchwardens of every parish, and four, three, or two substantial householders there, as shall be thought meet, having respect to the proportion and greatness of the same parish and parishes, to be nominated yearly in Easter week, or within one month after Easter, in the manner therein directed, shall be overseers of the poor of the same parish; and that it shall be lawful for the said churchwardens and overseers, or the greater part of them, by the assent of two justices of the peace, to bind the children of such parents as shall not, by the said churchwardens and overseers, or the greater part of them, be thought able to maintain their children, to be apprentices: And whereas, in divers small parishes, two persons only have been annually appointed to act in the capacity of churchwardens as well as overseers of the poor: And whereas, divers indentures for the binding of parish apprentices, and certificates of the settlements of poor persons, have been executed and signed by such two persons, purporting to be the churchwardens and overseers of such parishes; but by reason that the said indentures and certificates have not been signed by distinct persons as churchwardens and other distinct persons as overseers, such indentures and certificates have been or may be deemed to be void:” Be it therefore enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that all indentures for the binding of parish apprentices, [*and all certificates of the settlements of poor persons (b),*] which have been heretofore executed and signed by two persons only, acting or purporting to act in the capacity of churchwardens as well as of overseers of the poor, and also all such indentures and certificates as shall hereafter be so signed, shall be considered as good, valid, and effectual, as if the same had been executed and signed by distinct persons as churchwardens and distinct persons as overseers of the poor, according to the said recited Act; anything therein, or in any other Act contained to the contrary thereof notwithstanding.

Indentures
and certi-
ficates hereto-
fore signed by
two persons
only, acting as
churchwar-
dens, &c. valid.

* * * * *

(*a*) See 54 Geo. 3, c. 107; 1 & 2 Geo. 4, c. 32.

(*b*) See 30 & 31 Vict. c. 59, which repeals 8 & 9 Will. 3, c. 30, s. 1.

52 GEO. III. CHAP. 72.

AN ACT for the better Cultivation of Navy Timber in the Forest of Alice Holt, in the County of Southampton.

[20th June, 1812.]

* * * * *

VIII. Provided always, that from and after the passing of this Act, no person or persons shall, by residence in any house, lodge, or other building erected or to be erected within the said forest, or by hiring and service either for the preservation of the said woods or plantations, or the game in the said forest, gain thereby any settlement in the parish of Binsted, in the said county in which the said forest is situated.

* * * * *

52 GEO. III. CHAP. 146.

AN ACT for the better regulating and preserving Parish and other Registers of Births, Baptisms, Marriages, and Burials in England.

[28th July, 1812.]

* * * * *

V. The several books wherein such entries shall respectively be made, and all register books heretofore in use, shall be deemed to belong to every such parish or chapelry respectively, and shall be kept by and remain in the power and custody of the rector, vicar, curate, or other officiating minister of each respective parish or chapelry as aforesaid, and shall be by him safely and securely kept in a dry well-painted iron chest, to be provided and repaired as occasion may require, at the expense of the parish or chapelry, and which said chest containing the said books shall be constantly kept locked in some dry, safe, and secure place within the usual place of residence of such rector, vicar, curate, or other officiating minister, if resident within the parish or chapelry, or in the parish church or chapel; and the said books shall not, nor shall any of them be taken or removed from or out of the said chest, at any time or for any cause whatever, except for the purpose of making such entries therein as aforesaid, or for the inspection of persons desirous to make search therein, or to obtain copies from or out of the same, or to be produced as evidence in some court of law or equity, or to be inspected as to the state and condition thereof, or for some of the purposes of this Act; and that immediately after making such respective entries, or producing the said books respectively for the purposes aforesaid, the said books shall forthwith again be safely and securely deposited in the said chest (c).

* * * * *

(c) See 6 & 7 Will. 4, c. 86, s. 1.

52 GEO. III. CHAP. 155.

AN ACT to repeal certain Acts, and amend other Acts relating to Religious Worship and Assemblies and Persons Teaching or Preaching therein (*a*). [29th July, 1812.]

* * * * *

Teachers taking oaths, &c., exempt from offices, and from militia.

Sess. 1, c. 18.

IX. Every person who shall teach or preach in any such congregation or assembly, or congregations or assemblies as aforesaid, who shall employ himself solely in the duties of a teacher or preacher, and not follow or engage in any trade or business, or other profession, occupation, or employment for his livelihood, except that of a schoolmaster, and who shall produce a certificate of some justice of the peace of his having taken and made, and subscribed the oaths and declaration aforesaid, shall be exempt from the civil services and offices specified in the said recited Act passed in the first year of King William and Queen Mary, and from being ballotted to serve and from serving in the militia or local militia of any county, town, parish, or place in any part of the United Kingdom.

* * * * *

52 GEO. III. CHAP. 160.

AN ACT to enable Justices of the Peace to order Parochial Relief to Prisoners confined under Mesne Process for Debt in such Gaols as are not County Gaols (*b*).

[29th July, 1812.]

Justice to order parochial relief to

“WHEREAS great distress is suffered by poor persons confined under mesne process for debt in such gaols as are not county gaols, in consequence of their not receiving any allowance whereon to subsist during the time of such confinement:” May it therefore please your Majesty that it may be enacted, and be it enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that it shall be lawful for any one justice of the peace acting for the county, riding, or division wherein any gaol (which is not a county gaol) is situated, to order the overseers of the poor of the parish, town-

(*a*) See 1 Wm. & M. sess. 1, c. 18; the same subject, 2 & 3 Vict. c. 39; and 31 & 32 Vict. c. 72. 3 & 4 Vict. c. 82; 12 & 13 Vict. c. 106;

(*b*) Arrest on mesne process in civil actions, except in certain cases, was abolished by 1 & 2 Vict. c. 110. which latter was repealed in part, and other provisions made by 17 & 18 Vict. c. 109. Further on this subject, see 32 & 33 Vict. c. 62

ship, or place wherein any such gaol (which is not a county gaol) shall be situated, to relieve any poor person who shall be confined in such gaol under mesne process for debt, and who shall appear to such justice to be unable to support himself or herself, and who shall have applied for relief to such overseers as aforesaid.

debtors in
gaols not
county gaols.

II. Provided always, that the sum to be given of any such poor person shall not exceed sixpence per diem, during the time of his or her confinement in such gaol under mesne process for debt.

Sum limited.

III. The overseers of the poor of any such parish, township, or place to whom any such application for relief shall be made as aforesaid, if they shall doubt whether such poor person is legally settled in such parish, township, or place, shall cause him or her to be examined upon oath before one or more justice or justices of the peace, touching his or her last legal settlement, upon which examination it shall be lawful for justices to make an order for the removal of such poor person to the place of his last legal settlement, and to suspend the execution of such order of removal during the time of such person being confined in such gaol under such mesne process, which suspension of the same shall be indorsed on the said order, and signed by such justices, and the subsequent permission to execute the same shall be also indorsed on the said order, and signed by such justices, or by any other two justices of the peace acting for the same county, riding, or division.

Legal settle-
ment of debtor
ascertained.

Order of re-
moval sus-
pended while
debtor im-
prisoned.

IV. Provided always, that a copy of the order of removal, and of the order for suspending the execution of the same as aforesaid, shall, as soon as may be after the making thereof respectively, be served upon the overseers of the poor of the parish, township, or place in which such poor person shall by such order of removal be adjudged to be legally settled.

Served on
overseers of
the poor of
parish.

V. Although such poor person shall not have been actually removed in pursuance of such order of removal as aforesaid, it shall be lawful for any justice of the peace to direct the overseers of the poor of the parish, township, or place in which such pauper is adjudged to be settled, to repay to the overseers of the poor of the parish, township, or place wherein such gaol shall be situated, all the charges proved upon oath of any such overseers of the parish, township, or place where the gaol is situated, to have been incurred in granting relief to such pauper during the time of his confinement and the suspension of such order, not exceeding sixpence per diem; and if the overseers of the parish, township, or place to which such order of removal shall be made, or any or either of them, shall refuse or neglect to pay any such sum so advanced as aforesaid within twenty-one days after demand thereof, and shall not within the same time give notice of appeal as hereinafter mentioned, it shall be

Overseers to
repay expense
attending
pauper.

In case of re-
fusal, money
advanced
levied by dis-
tress.

lawful for one justice of the peace, by warrant under his hand and seal, to cause the money so directed to be paid as aforesaid to be levied by distress and sale of the goods and chattels of the person or persons so refusing or neglecting to pay the same, and also such costs attending the same, not exceeding forty shillings, as such justice shall direct; and if the parish, township, or place to which the removal was ordered to be made, be without the jurisdiction of the justice of peace issuing the warrant, then such warrant shall be transmitted to any justice of the peace having jurisdiction within such parish, township, or place as aforesaid, who upon receipt thereof is hereby authorized and required to indorse the same for execution: Provided nevertheless, that if the sum so ordered to be paid on account of such costs and charges exceed the sum of five pounds, the party or parties aggrieved by such order may appeal to the next general quarter sessions for the county, riding, or division in which such gaol is situated, against the same, as they may do against an order for the removal of poor persons by any law now in being; and if the court of quarter sessions shall be of opinion that the sum so awarded be more than of right ought to have been directed to be paid, such court may and is hereby directed to strike out the sum contained in the said order, and insert the sum which in the judgment of the said court ought to be paid, and in every such case the said court of quarter sessions shall direct that the said order so amended shall be carried into execution by the said justices by whom the order was originally made, or either of them, by such other justice or justices as the said court shall direct.

Appeal.

Appeal.

VI. Provided always, that it shall be lawful for the overseers of the poor of the parish, township, or place wherein such poor person shall, by such order of removal, be adjudged to be legally settled, to appeal against such order to the next general quarter sessions of the peace for the county, riding, or division in which such gaol is situated, holden after the service of the copy of such order of removal, in case such copy shall have been served upon such overseers twenty-one days before the holding of such quarter sessions; but in case the same shall not be served twenty-one days before the holding of such next general quarter sessions, then the appeal may be to the next succeeding general quarter sessions holden for the said county, riding, or division, and upon such appeal the like proceedings may be had as are observed in other cases of appeals against orders of removal of poor persons by any law now in being: Provided always, that in case such order of removal and suspension is not appealed against in manner aforesaid, or if upon appeal such order shall be confirmed, such poor person shall be deemed and taken to be legally settled in the parish, township, or place in which he shall by such order of removal be adjudged to be legally settled.

Proviso.

VII. In case any poor person applying for relief under the provisions of this Act shall, upon his examination as to his last legal settlement, be found not to be legally settled in any parish, township, or place within England and Wales, it shall be lawful for any one justice of the peace to order the overseers of the poor of the parish, township, or place wherein the gaol is situated (in which such poor person shall be confined under mesne process for debt), to relieve such poor person with a sum not exceeding sixpence per diem out of the funds in their hands applicable to the relief of the poor, which sum shall be reimbursed to the overseers of the poor of the said parish, township, or place, for the use of such funds, out of the county rate, by the treasurer of the county, riding, or division in which such parish, township, or place shall be situated, at the expiration of the confinement of such poor person upon such mesne process as aforesaid.

In case pauper no legal settlement in England or Wales, allowance paid out of county rate.

54 GEO. III. CHAP. 84.

AN ACT for regulating the Time of holding the Michaelmas Quarter Sessions in England.

[1st July, 1814.]

“WHEREAS the time now appointed for holding the quarter sessions for the Michaelmas quarter might be altered, so as to render the attendance at the same more generally convenient than it is at present;” Be it therefore enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this Act, the quarter sessions for the Michaelmas quarter shall in every year be holden, for every county, riding, division, city, borough, and place, within England and Wales, and for Berwick-upon-Tweed, in the first week after the eleventh day of October, instead of at the time now appointed for holding the same: and that all acts, matters, and things done, performed and transacted, at the time appointed by this Act for holding the said Michaelmas quarter sessions, shall be as valid and binding to all intents and purposes as if the same had been done, performed, and transacted, at the time heretofore appointed for the holding of such sessions; any former Act or Acts to the contrary notwithstanding (a).

When Michaelmas quarter sessions shall be held in counties in England.

II. Provided always, that nothing in this Act shall extend, or be construed to extend, so as to alter or vary the time at which the sessions for London or Middlesex are now holden.

Proviso for London and Middlesex.

(a) See 11 Geo. 4, and 1 Will. 4, c. 70, s. 35; and 4 & 5 Will. 4, c. 47.

54 GEO. III. CHAP. 91.

AN ACT to amend so much of an Act, passed in the forty-third Year of her late Majesty Queen Elizabeth, as concerns the Time of appointing Overseers of the Poor.

[14th July, 1814.]

43 Eliz. c. 2, s. 1. "WHEREAS by an Act made in the forty-third year of her late Majesty Queen Elizabeth, intituled 'An Act for the Relief of the Poor' (a), it is enacted, that the churchwardens of every parish, and four, three, or two substantial householders there, as shall be thought meet, having respect to the greatness of the parish, to be nominated yearly in Easter week, or within one month after Easter, under the hand and seal of two or more justices of the peace in the same county, whereof one to be of the *quorum*, dwelling in or near the same parish or division where the same parish doth lie, shall be called overseers of the poor of the same parish; And whereas great inconvenience is often found to arise, from the time for appointing such overseers being regulated by a movable feast;" Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this Act, the appointment of overseers of the poor, so directed by said Act of Queen Elizabeth, shall, in every year, be made on the twenty-fifth day of March, or within fourteen days next after the said twenty-fifth day of March, in all and every the same manner as directed by the said Act to be made in Easter week; anything in the said Act or any other Act to the contrary notwithstanding.

Appointment
of overseers of
the poor.

(a) See 43 Eliz. c. 2, s. 1.

TIME FOR APPOINTMENT OF OVERSEERS.

Decisions on
sect. 1.

Overseers may be appointed at any time of the year, for the statute of 54 Geo. 3, c. 91, is directory only with respect to the time of appointment: *Rex v. Sparrow*, Str. 1123.

An appointment of an overseer, made on the 14th April, at a meeting held by adjournment of a special sessions holden on 31st March, for the purpose of appointing overseers, is a good appointment. If in such a case the appointment be made by two other justices at an ordinary meeting of magistrates, on the 1st April, it would be bad: *Reg. v. Staffordshire JJ.*, 10 L. J. M. C. 166; S. C. *Reg. v. Sneyd*, 9 Dowl. Rep. 1001.

54 GEO. III. CHAP. 107.

AN ACT to render valid certain Indentures for the binding of Parish Apprentices, and Certificates of the Settlement of Poor Persons (b).

[23rd July, 1814.]

“WHEREAS by an Act passed in the forty-third year of her 43 Eliz. c. 2, late Majesty Queen Elizabeth, intituled, ‘An Act for the Relief of the Poor,’ it is enacted, that it shall be lawful for the churchwardens and overseers of the poor of any parish, or the greater part of them, by the assent of two justices of the peace, to bind the children of such parents as shall not by the said churchwardens and overseers, or the greater part of them, be thought able to maintain their children, to be apprentices: And whereas by an Act passed in the eighth and ninth year of his late Majesty King William the Third, intituled ‘An Act for supplying some Defects in the Laws for the Relief of the Poor of this Kingdom,’ it is enacted, that persons coming to inhabit in any parish, township, or place, shall bring with them a certificate under the hands and seals of the churchwardens and overseers of the poor, or the major part of them, of some other parish, township, or place, thereby owning and acknowledging the person or persons mentioned in the said certificate, to be an inhabitant or inhabitants legally settled in that parish, township, or place: And whereas divers parishes contain within themselves several townships, hamlets, or chapelries, each of which separately maintains its own poor: And whereas in such parishes the churchwardens are, for the most part, sworn into their offices as churchwardens of the whole parish, although in truth and in fact they act as churchwardens of the separate townships, hamlets, or chapelries therein contained: And whereas divers indentures for the binding of parish apprentices, and certificates of the settlements of poor persons, have heretofore been signed and executed by a person or persons styling himself or themselves, and stated in such indentures and certificates, to be churchwarden or churchwardens, chapelwarden or chapelwardens, of the township, hamlet, or chapelry, binding such poor apprentices, or granting such certificate: And whereas such person or persons have not been sworn into the office of churchwarden or chapelwardens of such township, hamlet, or chapelry, but of churchwarden of the parish wherein such township, hamlet, or chapelry is contained;” Be it therefore enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that all indentures for the binding of poor apprentices, *[and all certificates of the settlements of poor persons (c).]* which have been heretofore signed and executed, or

Indentures and certificates of settlement valid,

(b) See 51 Geo. 3, c. 80; 56 Geo. 3, c. 139; and 1 & 2 Geo. 4, c. 32. (c) See 30 & 31 Vict. c. 59, which repeals 8 & 9 Will. 3, c. 30, s. 1.

although
churchwar-
dens, &c. not
sworn in.

Proviso.

Indentures
and certifi-
cates valid if
executed by
overseers of
the poor of
any township,
&c.

which shall hereafter be signed and executed by a person or persons, who at the time of his or their signing and executing such indenture, or certificate of settlement, acted as churchwarden or churchwardens, chapelwarden or chapelwardens, of the township, hamlet, or chapelry, binding such poor apprentice, or granting such certificate of settlement, shall be deemed and taken to be as good, valid, and effectual, as if the same had been signed and executed by a person or persons actually sworn into the office of churchwarden or chapelwarden of such township, hamlet, or chapelry (a). Provided always, that such person or persons shall have been duly sworn into the office of churchwarden of the parish wherein the township, hamlet, or chapelry, binding such poor apprentice, or granting such certificate, be contained, or into the office of churchwarden or chapelwarden of such township, hamlet, or chapelry.

II. All indentures for the binding of poor apprentices, [*and all certificates of the settlement of poor persons (b),*] which shall have been heretofore signed and executed, or which may hereafter be signed and executed by the overseers of the poor of any township, hamlet, chapelry, or place, and the churchwarden or churchwardens, chapelwarden or chapelwardens, acting for or appointed in respect of such township, hamlet, chapelry, or place, or the major part of them, shall be deemed and taken to be as good, valid, and effectual, as if the said indentures and certificates had been signed and executed by such overseers and the churchwardens of the parish wherein such township, hamlet, chapelry, or place is situate, or the major part of them.

* * * * *

(a) See 31 & 32 Vict. c. 72.

(b) See 30 & 31 Vict. c. 59, which repeals 8 & 9 Will. 3, c. 30, s. 1.

54 GEO. III. CHAP. 170.

AN ACT to repeal certain Provisions in Local Acts for the Maintenance and Regulation of the Poor; and to make other Provisions in relation thereto. [30th July, 1814.]

“WHEREAS divers local Acts of parliament have lately passed, containing enactments relative to the maintenance and regulation of the poor, varying the general law with respect to parti-

EXECUTION OF INDENTURES.

Decision on
54 Geo. III.
c. 107, s. 2.

A parish apprentice was bound by indenture executed by A. B., churchwarden of the township of L., and by C. D., one of the overseers of the same township. Held sufficient under 54 Geo. 3, c. 107, s. 2: *Reg. v. Stainforth*, 17 L. J. M. C. 25; 11 Q. B. 66.

cular districts, parishes, townships, or hamlets; and it is expedient that some of such enactments should be repealed, and that other provisions contained in such Acts should be made general;" Be it therefore enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that all enactments, &c. in respect of gaining settlements contained in local Acts, repealed.

and provisions contained in any Act or Acts of parliament, since the commencement of the reign of his late Majesty George the First, whereby any alteration is made, in respect of gaining or not gaining a settlement within any particular district, parish, township, or hamlet, shall be, and the same are hereby repealed; and that all and every person shall be deemed and taken to have acquired and to acquire a settlement in every such district, parish, township, or hamlet, by any ways or means he, she, or they, would or might have done, or would or might do, in case such Act or Acts, or any of them, had not been made and passed, and notwithstanding the same, or any of them, are or was in force and operation.

II. Provided always, that no person shall be deemed or taken to acquire any settlement in any district, parish, township, or hamlet, by reason of such person being born of the body of any mother actually confined as a prisoner within the walls of any prison; or any house licensed for the reception of pregnant women, in pursuance of an Act made and passed in the thirteenth year of His present Majesty's reign, for the better regulation of lying-in hospitals, and other places appropriated for the charitable reception of pregnant women; in which any such prison or house (c) shall be situated.

Persons born in prisons, &c. not to gain settlement.

13 Geo. III. c. 82.

III. Provided always, that whensoever any person shall be born of the body of any poor person, in any house of industry, or house for the reception and care of the poor of any district, parish, township, or hamlet, which shall be locally situated in any district, parish, township, or hamlet, contributing to the expenses of maintaining the poor in such house, or in any other district, parish, township, or hamlet, not contributing to such expense, such person shall, so far as regards the settlement of such person, be deemed and taken to be born in the district, parish, township, or hamlet, by whom the mother of such person was sent to, and on whose account the mother of such person was received and maintained (d) in such house.

Settlements by reason of birth in any poor-house, &c.

IV. Provided always, that no person shall be deemed or taken to gain any settlement by reason of any residence within any district, parish, township, or hamlet, while he, she, or they

Prisoners for debt, &c. not to gain settle-

(c) See 13 Geo. 3. c. 82, s. 5; 51 Geo. 3, c. 79, s. 7; and 4 & 5 Will. 4, c. 76, s. 71.

(d) See 59 Geo. 3, c. 12, s. 11; 4 & 5 Will. 4, c. 76, ss. 44, 71; and 7 & 8 Vict. c. 101, s. 56.

ment while in custody. shall be detained or confined as a prisoner within any such district, parish, township, or hamlet, or any civil process, or for any contempt whatsoever (a).

Nogatekeeper, &c. to gain settlement. V. Provided always, that no gatekeeper or tollkeeper of any turnpike road or navigation, or person renting the tolls and residing in any toll-house of any turnpike road or navigation, shall thereby gain any settlement in any district, parish, township (b), or hamlet.

No person maintained in any charitable institution to gain settlement. VI. Provided always, that no person or persons shall gain any settlement in any district, parish, township or hamlet, by reason of any residence in any house or other dwelling-place provided for the residence of such person or persons by any charitable institution, while such person or persons shall be supported and maintained at the expense of such charitable institution, as an object or objects of such charity.

Masters, &c. of poor-house not to punish or confine beyond limited time. VII. From and after the passing of this Act it shall not be lawful for the master, governor, or other person intrusted with the superintendence of any house for the reception of poor persons, or the churchwarden, overseer, or other persons elected, constituted, or appointed, by or under the authority of any Act or Acts of parliament for the control or management of the poor of any district, parish, township, or hamlet, to punish with any corporal punishment whatsoever, any adult person or persons under his, her, or their care or charge, for any offence or misbehaviour whatsoever; or to confine any such person or persons whatsoever, for any offence or misbehaviour, for any longer or greater space of time than twenty-four hours, or such further space of time as may be necessary, in order to have such person or persons before a justice of the peace: anything in any Act or Acts of parliament contained to the contrary in anywise notwithstanding (c).

Overseers may sue on securities to indemnify against bastards. VIII. All securities given or received, or hereafter to be given for indemnifying any district, parish, township, or hamlet, for the maintenance of any bastard child or children respectively, or any expenses in any way occasioned by such district, parish, township, or hamlet, by reason of the birth or support of any

(a) See 9 & 10 Vict. c. 66, s. 1. c. 76, s. 93; 5 & 6 Vict. c. 57, s. 5;

(b) See 3 Geo. 4, c. 126, s. 51. 7 & 8 Vict. c. 101, s. 57; 11 & 12

(c) 55 Geo. 3, c. 137, s. 5; 56 Vict. c. 110, s. 9; 13 & 14 Vict. c. Geo. 3, c. 129, s. 2; 4 & 5 Will. 4, 101, s. 9; 14 & 15 Vict. c. 105, s. 18.

TOLL-HOUSE.

Decision on sect. 5.

A toll-house used also as a public-house, and of more annual value in consequence than otherwise it would have been, did not confer a settlement upon the occupier, as the case came within 54 Geo. 3, c. 170, s. 5: *Rex v. St. Andrew the Less, Cambridge*, 10 B. & C. 742.

bastard child or children born within such district, parish, township, or hamlet, or chargeable thereto, shall be, and the same are hereby declared to be vested in the overseers of the poor of such district, parish, township, or hamlet, for the time being; and that it shall and may be lawful for the overseers of the poor of such district, parish, township, or hamlet, to sue for the same, as and by their description of overseers of such district, parish, township, or hamlet; and such action so commenced by such overseers shall in no ways abate by reason of any change of overseers of such district, parish, township, or hamlet, pending the same, but shall be proceeded in by such overseers for the time being as if no such change had taken place; any law, usage, statute, or custom to the contrary in anywise notwithstanding (d).

IX. No inhabitant or person rated or liable to be rated to any rates or cesses of any district, parish, township, or hamlet, or wholly or in part maintained or supported thereby, or executing or holding any office thereof, or therein, shall, before any court or person or persons whatsoever, be deemed and taken to be by reason thereof an incompetent witness for or against such district, parish, township, or hamlet, in any matter relating to such rates or cesses; or to the boundary between such district, parish, township, or hamlet, and any adjoining district, parish, township, or hamlet; or to any order of removal to or from such district, parish, township, or hamlet; or the settlement of any pauper in such district, parish, township, or hamlet; or touching any bastards chargeable or likely to become chargeable to such district, parish, township, or hamlet; or the recovery of any sum or sums for the charges or maintenance of such bastards; or the election or appointment of any officer or officers, or the allowance of the accounts of any officer or officers of any such district, parish, township, or hamlet; any law, usage, statute, or custom, to the contrary in anywise notwithstanding (e).

Inhabitants
not incompetent witnesses
in certain cases
on behalf of
or against
parishes.

(d) See 59 Geo. 3, c. 12, s. 17; and 4 & 5 Will. 4, c. 76, s. 69.

(e) 3 Wm. & M. c. 11, s. 12; 4 & 5 Will. 4, c. 76, s. 100; 3 & 4 Vict. c. 26.

EVIDENCE.

Upon appeal against an order of removal, the declarations of a rated inhabitant of the appellant parish, are evidence against the parish, without calling the inhabitant, and showing that he refused to be examined: *Rez v. Lower Whitley*, 1 M. & S. 636. *Decisions on sect. 9.*

A person who pays highway rates within a parish is not rendered a competent witness by 54 Geo. 3, c. 170, s. 9, upon the trial of an issue whether within the parish there is a custom that all persons residing therein, whose duty it is to cause the highways to be repaired, may take shingle from the sea beach for the purpose of such repair, the custom not being a matter relating to rates or cesses within the meaning of the Act: *Oxenden v. Palmer*, 2 B. & Ad. 236.

Paupers ordered to be removed, may be conveyed by other persons than churchwardens or overseers.

X. It shall and may be lawful for the churchwardens, overseers, or others, having the control, ordering, or management of the poor of any district, parish, township, or hamlet, to employ any proper person or persons whomsoever, to carry, remove, and deliver any pauper or paupers ordered to be removed by any of His Majesty's justices of the peace, competent to make such order; and that a delivery by such person or persons of any pauper or paupers so ordered to be removed, shall be as good, valid, and effectual, to all purposes whatsoever, as if the same was or were delivered by any churchwarden or overseer whatsoever (a).

Justices out of sessions, with consent of parish officers, may discharge paupers from payment of parish rates.

XI. It shall and may be lawful for any two or more of His Majesty's justices of the peace, acting for the county, riding, division, or jurisdiction in which any district, parish, township, or hamlet shall be situated, in petty sessions assembled, on application made to them by any person rated to any rates or cesses within any such district, township, parish, or hamlet, to be discharged therefrom, and proof of his or her inability, through poverty, to pay such rate or cess, with the consent of the churchwardens and overseers of such district, parish, township, or hamlet, or of such other person or persons as is or are competent to act, under the authority of any Act or Acts of parliament, for the ordering, management, control, or direction of the poor of any such district, parish, township, or hamlet, to order and direct that such person shall be excused from the payment of such rate or cess, and to strike out his or her name therefrom; and the sum at which such person was so rated in such rate or cess shall not thereafter be collected, or any person or persons charged therewith, or in any manner called or liable to account for the same, or for omitting to collect or receive the same (b).

Distress for poor rate, &c. if not

XII. The goods and chattels of any person or persons neglecting or refusing to pay any sum or sums of money

(a) 14 Car. 2, c. 12, s. 3; 3 Wm. & M. c. 11, s. 10; 5 Geo. 4, c. 83, s. 3; 4 & 5 Will. 4, c. 76, ss. 79-84; 9 & 10 Vict. c. 66, s. 7. (b) See 14 & 15 Vict. c. 55, s. 12; and 32 & 33 Vict. c. 41, ss. 1, 2.

EXCUSAL OF RATES.

Decisions on sect. 11.

A freeman, entitled to vote for a member of parliament, who had been excused by the justices from payment of poor rates on the ground of poverty, under 54 Geo. 3, c. 170, s. 11, was not disqualified under 2 Will. 4, c. 45, s. 36, as having received parochial relief or alms: *Mashiter*, app., *Dunn*, resp., 6 C. B. 30; 18 L. J. C. P. 13.

An occupier of premises who claimed to be put on the borough register, at the revision for 1870, had been excused payment of a poor rate made in June, 1869, and it was held that for nonpayment of such rate, he was not duly qualified under 30 & 31 Vict. See 102, s. 3, sub-section 4: *Abel v. Lee*, 34 J. P. 343; 40 L. J. C. P. 154.

legally assessed on and due from him, her, or them in respect of any rate for the relief of the poor, church, cess, or highway cess of any district, parish, township, or hamlet, for the space of seven days after the same shall have been legally demanded of him, her, or them, shall and may be distrained (*c*), not only within such district, parish, township, or hamlet, but also within any other district, parish, township, or hamlet, within the same county, riding, division, or jurisdiction; and if sufficient distress cannot be found within the same county, riding, division, or jurisdiction, then upon oath thereof made before any one or more justice or justices of the peace of any other county, riding, division, or jurisdiction, in which any of the goods or chattels of such person shall be found; which oath such justice or justices are hereby required to administer and certify, by indorsing in his or their respective handwriting his or their name or names, on the warrant granted to make such distress, the goods and chattels of the said person or persons so neglecting or refusing to pay as aforesaid, shall be subject and liable to such distress and sale, in such other county, riding, division, or jurisdiction, where the same shall be found; and may by virtue of such warrant and certificate be distrained and sold in the same manner as if the same had been found within the district, parish, township, or hamlet, in or for which such rate or cess had been made or was due (*d*).

found within district, &c. made out of district.

(*c*) See 11 & 12 Vict. c. 44, s. 4. (*d*) See 17 Geo. 2. c. 38, s. 7; 12 & 13 Vict. c. 14.

55 GEO. III. CHAP. 137.

AN ACT to prevent Poor Persons in Workhouses from embezzling certain Property provided for their Use; to alter and amend so much of an Act of the thirty-sixth Year of His present Majesty, as restrains Justices of the Peace from ordering Relief to Poor Persons in certain Cases for a longer Period than one Month at a Time; and for other Purposes therein mentioned, relating to the Poor (*e*).

[4th July, 1815.]

“WHEREAS many persons, received into public workhouses established for the relief, maintenance, and employment of the poor, pawn and dispose of their clothes and apparel, and the goods and chattels deposited in or belonging to such workhouses; and poor persons, relieved by having clothes and apparel given them by the officers of parishes, frequently pawn and sell the same; and by the laws now in force no punishment can be inflicted on them, or on the person or persons buying or receiving the same into pawn:” For remedy whereof, may it please your Majesty that it may be enacted, and be it enacted, by the King’s most excellent Majesty, by and with the advice

(*e*) See 4 & 5 Will. 4, c. 76, s. 51.

Property in goods, &c. provided for use of poor vested in overseers.

Not to repeal provisions in local Acts.

Parish officers may cause goods, &c. to be marked.

Taking in pawn, buying, &c. property

and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that the property of, and in all and singular the goods, chattels, furniture, provisions, clothes, linen, and wearing apparel, tools, utensils, materials, and things whatsoever, had and to be had, bought, procured, or provided for the use of the poor of any parish or parishes, township or townships, hamlet or hamlets, place or places, shall be, and the same is hereby vested in the overseers of the poor of such parish or parishes, township or townships, hamlet or hamlets, place or places, for the time being, and their successors in office, for the purposes of this Act, who are hereby empowered to bring, or cause to be brought any action or actions, or to prefer or order the preferring of any bill or bills of indictment against any person or persons who shall steal, take, or carry away, or buy or receive any such goods, chattels, provisions, clothes, linen, furniture, wearing apparel, tools, utensils, materials, or things whatsoever, as aforesaid, or any part thereof; and in every such action and indictment the said goods, chattels, provisions, clothes, linen, wearing apparel, tools, utensils, materials, and things, shall be laid or described to be the property of the overseers of the poor for the time being of such parish or parishes, township or townships, hamlet or hamlets, place or places, without stating or specifying the name or names of all or any of such overseers (*a*): Provided always, that nothing herein contained shall extend to repeal any of the provisions contained in any Act or Acts of parliament, whereby the property of and in any such goods, chattels, furniture, provisions, clothes, linen, wearing apparel, tools, utensils, materials, and things, is or may be vested in any other person or persons jointly with or independent of the overseers of the poor of any parish or parishes, township or townships, hamlet or hamlets, place or places (*b*).

II. The overseers of the poor, or other person or persons who may be appointed for the ordering, regulating, managing, or providing for the poor of any parish or parishes, township or townships, hamlet or hamlets, place or places, jointly with, or independent of such overseers of the poor, shall or may, and they are hereby authorized and empowered to cause all such goods, chattels, furniture, clothes, linen, wearing apparel, tools, utensils, materials, and things capable of being marked, and from time to time belonging to such overseers, or other person or persons, to be marked, stamped, or branded with the word "workhouse," and such other mark or marks as they shall think proper for identifying the parish or parishes, township or townships, hamlet or hamlets, place or places, by which the same shall have been provided: And if any pawnbroker, or other person or persons, shall knowingly take in pawn, buy, exchange,

(*a*) See 7 Geo. 4, c. 64, s. 16.

5 & 6 Vict. c. 57, s. 5; and also 14

(*b*) See 5 & 6 Will. 4, c. 69, s. 7; & 15 Vict. c. 105, s. 5.

or receive any goods, chattels, furniture, clothes, linen, wearing apparel, tools, utensils, materials, and things provided for the use of any of the poor who are or shall be received into the workhouse of any parish or parishes, township or townships, hamlet or hamlets, place or places, or to whom the same shall have been given by the overseers of the poor, or other such person or persons as aforesaid appointed as aforesaid, of or for any such parish or parishes, township or townships, hamlet or hamlets, place or places, or any of them, or any of the goods or materials carried into any such workhouse or workhouses, to be wrought up, manufactured, or used by the poor there, or any of the goods or furniture of such workhouse or workhouses; or shall receive or buy any of the provisions allotted to or provided for the poor of such workhouse or workhouses, or shall be aiding or assisting therein; or if any person or persons shall cause such mark or stamp, marks or stamps as aforesaid, to be obliterated or defaced, every person so offending shall forfeit for every such offence any sum not exceeding the sum of five pounds, nor less than one pound, upon conviction thereof, either by the confession of such person or persons, or by the oath of one or more credible witness or witnesses, before any one or more of His Majesty's justices of the peace of the county, city, town, riding, or division wherein the offence or offences shall be committed; one moiety of which said penalty shall go to the informer or informers, and the other moiety shall go and be paid to the overseers of the poor of the parish or parishes, township or townships, hamlet or hamlets, place or places, to which such articles or things may belong, for the use of the poor of such parish or parishes, township or townships, hamlet or hamlets, place or places; and in case any person or persons who shall be convicted as aforesaid, shall not pay such penalty or penalties upon conviction, then and in such case such justice or justices of the peace shall and may, and is and are hereby required to commit such offender or offenders to the common gaol or house of correction, there to remain without bail or mainprize for any space of time not exceeding two calendar months; and if any person or persons shall desert or run away from any workhouse or workhouses, and carry away with him, her, or them, any clothes, linen, or other goods or things as aforesaid, such person or persons being thereof lawfully convicted either by the confession of such party or parties, or by the oath or oaths of one or more credible witness or witnesses, before any justice or justices of the peace, shall by such justice or justices of the peace be forthwith committed to the common gaol or house of correction, there to remain without bail or mainprize for the space of three calendar months (c); and in all cases such mark, stamp, or brand, on any such articles or things as aforesaid (being duly authenticated) shall be considered and taken to be sufficient evidence, without further

provided for poor by parish officers;

defacing, &c. marks, &c.

Penalty.

On non-payment of penalty, offenders committed.

Absconding with work-house property committed.

Mark, &c. on articles evidence of right of property.

(c) See 50 Geo. 3, c. 50, s. 4; 5 c. 101, s. 58; 13 & 14 Vict. c. 101, & 6 Vict. c. 57, s. 5; 7 & 8 Vict. ss. 8, 9; 14 & 15 Vict. c. 105, s. 8.

How mark
put on wear-
ing apparel.

proof, of the right of property in such overseers or other person or persons appointed as aforesaid, as the case may be : Provided always, that such mark or stamp as aforesaid shall not at any time be placed on any articles of wearing apparel so as to be publicly visible on the exterior of the same.

* * * * *

Misbehaving
in workhouses.

V. "And whereas persons maintained in public workhouses sometimes refuse to work, or are guilty of drunkenness and other misbehaviour, and by the laws in being no sufficient punishment is provided for such offences:" Be it therefore enacted, that in case any person or persons, maintained in any public workhouse or workhouses established for the relief, maintenance, and employment of the poor, shall refuse to work at any work, occupation, or employment, suited to his, her, or their age, strength, and capacity, or shall be guilty of drunkenness or other misbehaviour, every such person or persons, being thereof lawfully convicted before any justice or justices of the peace, shall thereupon, by such justice or justices of the peace, be committed to the common gaol or house of correction, there to remain without bail or mainprize for any period of time not exceeding twenty-one days, and during such time to be kept to hard labour (a).

Imprisonment.

Persons having
management
of poor, not
concerned in
contracts, &c.
whilst in office.

VI. From and after the 25th day of March next after the passing of this Act, [*no churchwarden or overseer of the poor(b),*] or other person or persons in whose hands the collection of the rates for the relief of the poor, or the providing for, ordering, management, control, or direction of the poor of any parish or parishes, township or townships, hamlet or hamlets, place or places, shall or may be placed jointly with, or independent of, such churchwardens and overseers, or any of them (c), under or by virtue of any Act or Acts of parliament, shall, either in his own name, or in the name of any other person or persons, provide, furnish, or supply, for his or their own profit, any goods, materials, or provisions, for the use of any workhouse or workhouses, or otherwise, for the support and maintenance of the poor, in any parish or parishes, township or townships, hamlet or hamlets, place or places, for which

(a) See 22 Geo. 2, c. 40 ; 54 Geo. The words in italics are repealed by 3, c. 170, s. 7 ; 4 & 5 Will. 4, c. 76, 31 & 32 Vict. c. 122, s. 44.

s. 93 ; 5 & 6 Vict. c. 57, s. 5. (c) See 4 & 5 Will. 4. c. 76, ss. 51,

(b) See 12 & 13 Vict. c. 103, s. 6. 77.

CUTTING HAIR OF FEMALE PAUPER.

Decision on
sect. 2.

If parish officers cut off the hair of a female pauper in the poor house, and against the will of the pauper, this is an assault ; and if it be done as matter of degradation, and not with a view to cleanliness, that will be an aggravation, and go to increase the damages : *Forde v. Skinner*, 4 C. & P. 239.

he or they shall retain such appointment, nor shall be concerned, directly or indirectly, in furnishing or supplying the same, or in any contract or contracts relating thereto, under pain of forfeiting the sum of one hundred pounds, with full costs of suit, to any person or persons who shall sue for the same by action of debt, or on the case, in any of His Majesty's courts of record at Westminster, in which action or actions no essoin, protection, wager of law, or more than one imparlance shall be allowed: Provided nevertheless, that if it shall happen in any parish or parishes, township or townships, hamlet or hamlets, place or places, that a person or persons competent and willing to undertake the supply of any of the articles or things required for such workhouse or workhouses, or for the use of the poor there, cannot be found within a convenient distance therefrom, other than and except some or one of the churchwardens and overseers of the poor, or other person or persons having the ordering, managing, control, or direction of the poor, in such parish or parishes, township or townships, hamlet or hamlets, place or places, then and in every such case it shall and may be lawful to and for any two or more neighbouring justices of the peace (proof thereof having been first duly made before them upon oath, and which oath such justices or any one of them are and is hereby authorized and empowered to administer), by certificate, under their hands and seals, to permit and suffer any one or more of such churchwardens and overseers or other such person or persons as aforesaid, to contract and agree for the furnishing and supplying of any articles or things which may be required for such workhouse or workhouses, or otherwise, for the use of the poor of such parish or parishes, township or townships, hamlet or hamlets, place or places, during the time which he or they may retain such appointment, anything herein contained to the contrary notwithstanding: and such certificate shall be entered with the clerk of the peace, or town-clerk of the county, city, town, or district, in which such person or persons shall reside, and a copy thereof left with him, for which entry every such clerk shall receive one shilling and no more; and from that time, every person and persons named in any such certificate, shall be discharged from any penalty to which he or they would otherwise be liable under this Act, for furnishing or supplying any such articles or things as aforesaid; and in case any action or suit for the recovery of any such penalty as aforesaid shall be commenced against any person or persons to whom such certificate shall have been granted as aforesaid, it shall and may be lawful to and for such person or persons to plead generally, that he or they was or were duly discharged from any liability to such forfeiture, by a certificate granted according to the provisions of this Act; and upon due proof being given of such certificate, and of such entry thereof as aforesaid, the jury shall find a verdict for the defendant in such action or suit, and if the plaintiff or plaintiffs shall become nonsuited, or discontinue his, her, or their action, or if verdict shall pass against

Penalty.

Exceptions.

Oath.

Certificate.

Certificate entered.

Fee.

Pleading.

Double costs.

him, her, or them, or if judgment shall be had against him, her, or them, on demurrer, then the defendant or defendants in such action shall have [*double costs*] (a), and have such and the like remedy for the recovery of the same, as any defendant or defendants have or hath for recovering costs of suit in any other cases by law.

* * * * *

VIII. All justices of the peace before whom any person or persons shall be convicted of any offence against this Act, shall

(a) Double costs were abolished by 5 & 6 Vict. c. 97, s. 2.

LIABILITY TO PENALTY.

*Decisions on
sect. 6.*

The 55 Geo. 3, c. 137, s. 6, only prohibits overseers from supplying the workhouse, or the poor of the parish generally; where, therefore, an overseer who kept a chandler's shop, received an order for the relief of a pauper, and paid part in money and the remainder in goods from his shop, with the consent of the pauper, he was held not liable to the penalty imposed by the statute: *Proctor v. Manwaring*, 3 B. & Ald. 145.

The master of a workhouse bought provisions for the poor from one of the guardians, and the latter was held liable to the penalty of 100*l.*, under 55 Geo. 3, c. 137, s. 6: *West v. Andrews*, 1 B. & C. 77; 2 D. & R. 184; 5 B. & Ald. 328.

An overseer who supplied coals for the use of the poor was not liable to any penalty under 55 Geo. 3, c. 137, s. 6, unless he did it with a view to his own profit: *Skinner v. Buckee*, 3 B. & C. 6; 4 D. & R. 628.

The declaration will be bad if it do not conclude "against the form of the statute": *Wells v. Iggulden*, 3 B. & C. 186.

A farmer who furnished the produce of his land to the poor of the parish of which he was churchwarden, at a fair market price, was held liable to penalties under 55 Geo. 3, c. 137, s. 6: *Pope v. Backhouse*, 8 Taunt. 239; 2 Moore, 186.

The 55 Geo. 3, c. 137, s. 6, does not extend to a person doing work in the workhouse and supplying materials incidentally to such work: as a painter and glazier, who mends the windows of the workhouse, providing paint, glass, and lead: *Barber v. Waite*, 1 A. & E. 514; 3 L. J. M. C. 101; 3 N. & M. 611.

Where one under a local Act is qualified to be a guardian, and *ipse facto* becomes a guardian and supplies goods for the poor, he is *prima facie* liable to the penalty under 55 Geo. 3, c. 137, s. 6, though there be no evidence of his having acted as a guardian during the time the goods were supplied, or of any express contract to supply the goods: *Stanley v. Dodd*, 1 D. & R. 397.

The 77th section of 4 & 5 Will. 4, c. 76, does not repeal 55 Geo. 3, c. 137, s. 6, and therefore an overseer of the poor of a parish in a union was liable to be sued for the penalty imposed by the latter for supplying for his own profit, whilst he was overseer, goods, &c., for the use of the workhouse, he not having obtained a certificate as provided for by s. 6: *Robinson v. Emerson*, 14 L. T. (N. S.) 291; 12 Jur. (N. S.) 378; 30 J. P. 328.

The supply of a single article to one pauper by an assistant overseer for his own profit does not render him liable to a penalty under 55 Geo. 3, c. 137, s. 6: *Henderson v. Sherborne*, 7 L. J. M. C. 28; 2 M. & W. 236.

and may cause the conviction to be drawn up in the following Form of conviction, or to the like effect; that is to say,

“Be it remembered, that on the day of in the
 “year of our Lord A. B. is duly convicted before
 “of His Majesty’s justices of the peace for the county of
 “[or city or liberty of as the case may be] of having [here
 “state the offence] contrary to the statute in that case made and
 “provided. Given under my hand and seal [or our hands and
 “seals, as the case may be] the day and year first above
 “written.”

And that such conviction shall be good and effectual in law to all intents and purposes, and shall not be quashed, or set aside, or adjudged void or insufficient for want of any other form of words whatever; nor shall the same be removed by *certiorari* or any other writ or process whatsoever, into any of His Majesty’s courts of record at Westminster, any law, statute, or usage to the contrary thereof notwithstanding (b). Want of form. *Certiorari*.

IX. Provided always, that if any person or persons shall think himself, herself, or themselves aggrieved by the judgment of such justice or justices as aforesaid, such person or persons may appeal to the next general or quarter sessions of the peace to be held for the county, city, or place, wherein the cause of complaint shall have arisen; such person or persons, at the time of his, her, or their conviction, entering into a recognizance, with two sufficient sureties, conditioned personally to appear at the said sessions, to try such appeal, and to abide the further judgment of the justices at such sessions assembled; and the said justices at such general or quarter sessions shall hear and determine the causes and matters of such appeal in a summary way, and make such order therein as the said justices shall think proper; and the determination of such justices at their general or quarter sessions shall be final and conclusive. Appeal.
 Recognizance.
 Decision final.

55 GEO. III. CHAP. 138.

AN ACT for vesting in His Majesty certain Parts of the Forest of Exmoor, otherwise Exmore, in the Counties of Somerset and Devon; and for enclosing the said Forest.

[4th July, 1815.]

* * * * *

LXX. “And whereas it may happen that some part of the said forest may hereafter become inhabited, in which case the inhabitants thereof, by reason of its remote distance from any parish church, and of its being locally situate out of the limits or boundaries of any parish, will have no place of public wor-

(b) But see 11 & 12 Vict. c. 43.

Church
erected when
population of
forest renders
necessary.

ship to resort to; and it is therefore expedient that as well for the convenience of such inhabitants as for extending the benefit and influence of religious worship and instruction, that such provisions should be made in that respect as are hereinafter contained:” Be it therefore further enacted, that such a quantity of land as shall be necessary for the site of a church, and for a churchyard or cemetery, and for the site of a proper parsonage house and offices to be erected and built, and for a garden and yard or homestead to be attached thereto, to the extent in the whole of ten acres at the least, shall be reserved by the crown out of the lands so to be allotted to His Majesty as aforesaid, and shall not be sold; and that in case at any time hereafter the number of persons who shall be resident and inhabiting upon the said forest shall, in the judgment and opinion of the lords commissioners of His Majesty’s treasury, and the Bishop of Bath and Wells for the time being, be such as shall render it expedient that a church shall be erected upon the said allotment, for the performance of divine worship therein, and for the affording religious instruction to the inhabitants thereof, then and in such case the said commissioners of His Majesty’s treasury shall, by and out of the land revenues of the crown, cause a new church and a fit and convenient parsonage house and offices to be erected and built upon part of the lands so to be reserved as aforesaid, and shall appropriate other part thereof near to the said church, for a churchyard or burial ground, and the residue thereof as a garden, yard or homestead to the said parsonage house, and shall enclose the same accordingly, in such manner as the said last-mentioned commissioners shall think proper for such purposes; and shall cause the said church when so erected, and the churchyard so to be attached thereto, to be duly consecrated according to the usage of the Church of England; and the same church shall be for ever thereafter set apart and dedicated as and for a place of divine worship, according to the rites and ceremonies of the Church of England, for the use of all the inhabitants who shall so reside within the bounds or precincts of the said forest, and shall be named and called *The Parish Church of Exmoor*; and that the said forest shall for ever thereafter form and be a distinct parish of itself, and be called by the name of *The Parish of Exmoor*: Provided always, that there shall be set apart and appropriated in the church to be erected and built by virtue of this Act, such a number of seats for the gratuitous accommodation of the poor of the said parish, as the lord bishop of the diocese shall think necessary, proper, and convenient.

Proviso.

Ground used
as churchyard
to continue so.

LXXI. From and after the erection and consecration of the said parish church, the said piece of ground which shall be so enclosed and appropriated as a churchyard or cemetery as aforesaid, shall be and for ever continue to be a churchyard or place of burial for all the inhabitants of such parish.

LXXII. The plan or design of such church, parsonage house, offices and other buildings, shall be submitted to and approved by the Bishop of Bath and Wells for the time being, before the same shall be erected; and that no such church, parsonage house or other building, shall be erected in pursuance of this Act, without the approbation of the said bishop signified in writing under his hand.

Plan of church, &c. approved by bishop.

LXXIII. The said church when built, completed, and consecrated as aforesaid, shall be and is hereby declared to be a perpetual cure and benefice, and shall be called by the name of "The Parish Church of Exmoor;" and every minister of the said church shall be by virtue of this Act incorporated and made a body politic and corporate, by the name of "The officiating minister of the church of Exmoor;" and shall have perpetual succession, and be enabled to sue and be sued by that name in all courts of this realm; and the said church and churchyard or burial place, and the said parsonage house, garden, yard, or homestead, shall be vested in the said minister and his successors for the time being for ever; and the said church and the ministers thereof shall be subject, in all respects, to visitation of the Lord Bishop of Bath and Wells for the time being, and shall also be subject to the ordinary ecclesiastical jurisdiction by law established; and that divine service shall be from time to time for ever thereafter performed in the said church, according to the rites and ceremonies of the Church of England as by law established.

Church deemed a perpetual cure.

* * * * *

LXXVII. After the said church shall be so built and consecrated as aforesaid, christenings and burials had and solemnized within the said church shall be registered in public registers to be provided and kept for that purpose, in like manner as by law directed, or as is usually practised in other parish churches.

Christenings, &c. registered.

LXXVIII. When the said church shall have been so built and consecrated, and the said parish so formed as aforesaid, all the laws and statutes which shall be then in force within that part of the United Kingdom called England, relating to parishes or to parochial offices, shall be in full force and have effect and operation in all respects, in relation to such new parish and parish offices of Exmoor, in like manner as if the same had been a parish previously to the making and passing the same laws and statutes.

Parish, &c. subject to all laws relative thereto.

LXXIX. If at any time after the said church shall be so built and consecrated, and the said parish shall be so formed as aforesaid, any number of the inhabitants of such new parish

Parish may be divided into townships.

shall think fit to apply by petition to the justices at any general quarter sessions of the peace which shall be holden for the said county of Somerset, to have the said parish divided into two or more townships, then and in such case it shall be lawful to and for the justices not interested in the premises, in their said general quarter sessions, and they are hereby required to hear such petition, and to investigate and inquire into the allegations therein contained; and if upon such hearing the said justices shall think it requisite or expedient that the said parish shall be divided into two or more townships, then and in such case it shall and may be lawful to and for such justices, in their said general quarter sessions, and they are hereby authorized and empowered to make such order and award for the division of the said parish into two or more townships accordingly, and to give all such directions in relation thereto as they shall think requisite and necessary; and in case such order shall be so made, then and from thenceforth the said parish shall be divided accordingly into such townships, and such townships shall be called by such names as the said justices shall in and by such order direct; and every such township shall from thenceforth for ever thereafter provide for its own poor, and have and enjoy and be vested with such and the like powers, privileges, and immunities, and be subject to such and the like regulations as are or shall be then incident to and held and enjoyed by the several other townships within the said county of Somerset, by the laws and statutes in that part of the United Kingdom of Great Britain and Ireland called England.

* * * * *

56 GEO. III. CHAP. 129.

AN ACT to repeal certain Provisions in Local Acts for the Maintenance and Management of the Poor.

[1st July, 1816.]

“WHEREAS divers local Acts of parliament have lately passed, containing enactments relative to the maintenance and regulation of the poor, varying the general law with respect to particular districts, parishes, townships, or hamlets; and it is expedient that some of such enactments should be repealed:” Be it therefore enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that all enactments and provisions, contained in any Act or Acts of parliament since the

commencement of the reign of his late Majesty King George the First, whereby any poor person or persons, other than such as shall actually apply for and receive parochial relief, are compelled or made compellable to go or remain in any house of industry or workhouse; or whereby any poor person or persons may be detained or kept in any house of industry or workhouse; at the discretion of the governors or directors thereof, or of the churchwardens or overseers of the poor of any district, parish, township, or hamlet, after such persons are capable of maintaining themselves; or whereby any poor person or persons may be compelled to remain in any house of industry or workhouse, until the charges and expenses to which any district, parish, township, or hamlet may have been put or become liable or chargeable for the maintenance or support of such poor person or persons, or any of his or her family, shall be repaid or reimbursed or satisfied by the earnings or labour of such poor person or persons; or whereby any poor child or children whomsoever is or are rendered liable to be apprenticed to any governor, director, or master of any such house of industry or workhouse; or whereby any parish, township, or hamlet, at a greater distance than ten miles from such house of industry or workhouse, shall hereafter be empowered or authorized to become contributors to, or to take the benefit of such house of industry or workhouse (*a*); or whereby any directors, governors, guardians, or masters of any such house of industry or workhouse, are authorized or empowered to hire out any poor person or persons of full age, or to contract or agree with any person or persons to have and take the profit of the labour of such poor person or persons; shall be wholly and severally, and the same are hereby wholly and severally, repealed.

Poor Acts, passed since the commencement of the reign of Geo. I., as to compelling poor persons to go to houses of industry, &c. repealed.

II. From and after the passing of this Act, it shall not be lawful for any governor, director, guardian, or master, of any house of industry or workhouse, on any pretence, to chain, or confine by chains or manacles, any poor person of sane mind.

Confining the poor by chains or manacles unlawful.

56 GEO. III. CHAP. 139.

AN ACT to regulate the binding of Parish Apprentices (*b*).

[2nd July, 1816.]

“WHEREAS many grievances have arisen from the binding of poor children as apprentices by parish officers to improper persons, and to persons residing at a distance from the parishes to

(*a*) See 4 & 5 Will. 4, c. 76, s. 31. Vict. c. 101, ss. 12, 13; 14 & 15 Vict.

(*b*) See 3 & 4 Will. 4, c. 63; 4 & c. 11; and 17 & 18 Vict. c. 104, s. 144.
5 Will. 4, c. 76, ss. 15, 31, 61; 7 & 8

How parish apprentices shall be bound.

Justices to inquire into certain matters.

May examine the parents.

In what case justices to make an order that overseers bind the child apprentice.

which such poor children belong, whereby the said parish officers and the parents of such children are deprived of the opportunity of knowing the manner in which such children are treated, and the parents and children have, in many instances, become estranged from each other; and also from the permission given to apprentices, by the persons to whom such apprentices have been bound, to serve others without a formal assignment, whereby the discretion to be exercised by magistrates in placing out apprentices to suitable persons, is frequently rendered of no avail:" For remedy whereof, be it enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the first day of October, in the year of our Lord one thousand eight hundred and sixteen, before any child shall be bound apprentice by the overseers of the poor of any parish, township, or place, such child shall be carried before two justices of the peace of the county, riding, division, or place wherein such parish, township, or place shall be situate, who shall inquire into the propriety of binding such child apprentice to the person or persons to whom it shall be proposed by such overseers to bind such child; and such justices shall particularly inquire and consider whether such person or persons reside, or have his, her, or their place or places of business within a reasonable distance from the place to which such child shall belong, having regard to the means of communication between such places, or whether any circumstances shall make it fit, in the judgment of such justices, that such child should be placed apprentice at a greater distance; and if the father or mother of such child shall be living, and shall reside in or near the place to which such child shall belong, such justices shall (if they see fit) examine such father or mother, or either of them, and shall particularly inquire as to the distance of the residence or place of business of the person or persons to whom it shall be proposed to place such child, and the means of communication therewith; and such justices shall also inquire into the circumstances and character of such person or persons; and if such justices shall, upon such examination and inquiry, think it proper that such child should be bound apprentice to such person or persons, such justices shall make an order, declaring that such person or persons is or are fit person or persons to whom such child may be properly bound as apprentice, and shall thereupon order that the overseer or overseers of the place to which such child shall belong, shall be at liberty to bind such child apprentice accordingly: which order shall be delivered to such overseer or overseers, as the warrant for binding such child apprentice as aforesaid, and such order shall be referred to by the date thereof, and the names of the said justices in the indenture of apprenticeship of such child; and after such order shall have been made, such justices shall sign their allowance of such indenture of apprenticeship, before the same shall be executed by any of the other parties thereto:

Provided always, that no such child shall be bound apprentice in trade, at which it is intended that such child shall be employed, out of the same county, at a greater distance than forty miles from the parish or place to which such child shall belong, unless such child shall belong to some parish or place which shall be more than forty miles from the city of London, in which case it shall be lawful for the justices who shall authorize the apprenticing of such child to make a special order for that purpose, in which order such justices shall distinctly specify the grounds on which they shall think fit to allow of the apprenticing of such child to a person or persons residing, or having an establishment in trade, at a greater distance than forty miles from the parish or place to which such child shall belong.

Proviso as to employing apprentice out of the county where bound.

APPRENTICESHIP—APPLICATION OF STATUTE.

A parish apprentice might be bound to a person residing not only in a different parish, but in a different county: *Rea v. St. Nicholas, Nottingham, sect. 1.* 2 T. R. 726.

An indenture binding an apprentice, executed by W. S., churchwarden, and J. G., overseer, of a hamlet maintaining its own poor, not being impeached by evidence negating its execution by a majority of the churchwardens and overseers of the hamlet, was declared good, by intending that there were two overseers for the hamlet as required by 14 Car. 2, c. 12, s. 21, and only one churchwarden, by custom, in the same place, and therefore the apprentice serving forty days under it gained a settlement: *Rea v. Hinckley*, 12 East, 361.

Since 14 Car. 2, c. 12, an indenture of apprenticeship executed by the overseers of a township having no churchwardens, and maintaining its own poor separately, was a valid indenture, although neither of the churchwardens of the parish in which the township was situated joined in the execution: *Rea v. Nantwich*, 16 East, 228.

The 51 Geo. 3, c. 80, extended to parishes where there were three officers only, one of whom acted as churchwarden as well as overseer; and therefore, an indenture of apprenticeship in such a case, signed by two parish officers, one of whom acted in a double capacity, was held to be valid: *Rea v. St. Margaret, Leicester*, 2 B. & Ald. 200.

The 56 Geo. 3, c. 139, s. 1, is compulsory as to the reference to the date of the order of justices; and therefore, an indenture in which the date of the order was omitted, was void, and no settlement was gained under it: *Rea v. Bawbergh*, 2 B. & C. 222.

The approval of the indenture by two justices should be under their hands and seals, and if it be not, the indenture is void, and no settlement could be gained under it: *Rea v. Stoke Damerel*, 7 B. & C. 563.

The allowance of the indenture under 56 Geo. 3, c. 139, s. 1, by two justices need not be under seal; but the allowance of an indenture, to which the parish officers were not parties, but in respect whereof some expense was incurred by the parish, is required by section 11 of that Act to be sealed as well as signed: *Rea v. St. Paul, Exeter*, 10 B. & C. 12.

The 56 Geo. 3, c. 139, applied to cases where the binding was either directly or indirectly by the parish officers. The first 10 sections to cases where the parish officers were parties to the indenture; the 11th to cases where they were not actual parties, but procured the binding: *Rea v. St. Peters, Hereford*, 1 B. & Ad. 916.

Indenture to be allowed by two justices of the county into which apprentice is to be bound, as well as by two justices of the county from which he is bound.

Notice to overseers before indenture allowed.

II. In all cases where the residence or establishment of business of the person or persons to whom any child shall be bound, shall be within a different county or jurisdiction of the peace, from that within which the place by the officers whereof such child shall be bound shall be situated, and in all other cases where the justices of the peace for the district or place within which the place by the officers whereof such child shall be bound shall be situated, and who shall sign the allowance of the indenture by which such child shall be bound, shall not have jurisdiction, every indenture by which such child shall be bound at any time after the said first day of October shall be allowed as well by two justices of the peace for the county or district within which the place by the officers of which such child shall be bound shall be situated, as by two justices of the peace for the county or district within which the place shall be situated wherein such child shall be intended to serve: Provided always, that no indenture shall be allowed by any justice of the peace for the county into which such child shall be bound, who shall be engaged in the same business, employment, or manufacture in which the person to whom such child shall be bound is engaged; and notice shall be given to the overseers of the poor of the parish or place in which such child shall be intended to serve an apprenticeship, before any justice of the peace for the county or district within which such parish or place shall be,

APPRENTICESHIP—APPLICATION OF STATUTE—*continued.*

Decisions on sect. 1.

In an indenture the justices describing themselves as justices of the county aforesaid, had the same meaning as the words "said county" in the body of the indenture: *Rex v. Countesthorpe*, 2 B. & Ad. 487.

An indenture binding a boy apprentice for a longer term than was allowed by a local Act, was not void, but only voidable: *Rex v. St. Gregory*, 2 A. & E. 99.

Where it appeared from the documents that the allowing justices were acting in and for the county, it was sufficient; and the words in 56 Geo. 3, c. 139, s. 1, "such justices shall sign the allowance of such indenture," mean the same justices who made the order for the binding: *Reg. v. Ashburton*, 8 Q. B. 871; 15 L. J. M. C. 97.

Two distinct parishes which were united by statute for all purposes (except ecclesiastical matters), where previous thereto a pauper had gained a settlement in one of the parishes, it was held that he might be removed to the united parishes: *Reg. v. Holme*, 15 L. J. M. C. 125.

The allowance of an indenture by justices under 56 Geo. 3, c. 139, s. 1, need not appear on the face of it to be made within their jurisdiction: *Reg. v. Stainforth*, 17 L. J. M. C. 25; 11 Q. B. 66.

The allowance of the indenture should appear on the face of it to be locally within the jurisdiction of the allowing justices, except in cases where such jurisdiction appeared in the order for binding, and the allowance was made by the same justices: *Reg. v. Totnes*, 18 L. J. M. C. 46.

Where a parish indenture stated in the body of it that the binding was with the approbation of two justices whose names were thereunto subscribed, the allowance at the foot purported to be signed by the justices before the indenture was executed, and referred by date and names to the order for binding, this was a compliance with 56 Geo. 3, c. 139: *Reg. v. Aldborough*, 18 L. J. M. C. 81.

shall allow such indenture; and such notice shall be proved before such justice shall sign such indenture, unless one of such overseers shall attend such justice, and admit such notice (a).

(a) See 3 & 4 Will. 4, c. 63.

APPRENTICESHIP—NOTICE AND ALLOWANCE OF INDENTURES.

An indenture of a parish apprentice assented to by two justices separately was void: *Rex v. Hamstal Ridware*, 3 T. R. 380. *Decisions on sect. 2.*

The assent of two justices to a parish indenture was sufficiently signified by one of them first signing it alone, and being afterwards present when the other signed it: *Rex v. Winwick*, 8 T. R. 454.

Where justices in their consent to an indenture of apprenticeship described themselves as justices "of the county aforesaid," it was held that it sufficiently appeared that they were justices of the county intended: *Rex v. Hinckley*, 1 B. & Ald. 273.

Under 56 Geo. 3, c. 139, s. 2, the indenture must be allowed by four distinct persons, two being justices of the county from which the apprentice was to be bound, and the other two of the county into which he was to be bound: *Rex v. Shipton*, 8 B. & C. 772.

The 56 Geo. 3, c. 139, s. 2, gives the justices a discretion on the propriety of the binding generally, and not merely with regard to the fitness respectively of the master and apprentice: *Rex v. Essex JJ.*, 2 B. & Ad. 578.

Under 56 Geo. 3, c. 139, s. 2, when an apprentice was bound from one parish into another, notice must have been given to the overseers of the latter, though both were in the same county: *Rex v. Threlkeld*, 4 B. & Ad. 229.

On an appeal against an order of removal, the respondents are not bound to prove notice under 56 Geo. 3, c. 139, ss. 1, 2; and if there be no evidence to the contrary, the notice will be presumed: *Rex v. Whiston*, 4 A. & E. 607.

On an appeal respecting a settlement by apprenticeship under an indenture allowed by justices under 56 Geo. 3, c. 139, s. 2, and 3 & 4 Will. 4, c. 63, s. 1, if the indenture and allowance do not mention that notice to the parish officers was given, it will be presumed that such notice was proved or admitted: *Rex v. Witney*, 5 A. & E. 191.

An assignment of an apprentice may be good for the purpose of settlement; and the 56 Geo. 3, c. 139, c. 2, as to notice, does not extend to an assignment: *Rex v. Exminster*, 6 A. & E. 598.

Under 56 Geo. 3, c. 139, s. 2, notice of an intended binding an apprentice from one parish into another, was sufficiently given if served on one of the overseers of the latter, and addressed to the whole body of parish officers: *Reg. v. Holme*, 15 L. J. M. C. 125.

A parish apprentice was bound by indenture executed by A. B., churchwarden of the township of L., and C. D., one of the overseers of the same township. Held sufficient under 54 Geo. 3, c. 107, s. 2: *Reg. v. Stainforth*, 17 L. J. M. C. 25; 11 Q. B. 66.

Under 56 Geo. 3, c. 139, s. 2; 3 & 4 Will. 4, c. 63, s. 3; and 2 & 3 Vict. c. 71, s. 14, when a pauper child is bound apprentice by parish officers from one parish into another, both within a city, a single metropolitan police magistrate, having jurisdiction in both the city and the county wherein it is situate, may allow the indenture: *Reg. v. St. George, Bloomsbury*, 16 Q. B. 1005; 20 L. J. M. C. 200.

An order of justices for the binding an apprentice made under 56 Geo. 3, c. 139, must show on the face of it that the justices acted at the time within their jurisdiction: *Reg. v. St. George, Bloomsbury*, 24 L. J. M. C. 49; 1 Jur. (N. S.) 230; 24 L. T. 213.

Allowance by county magistrates valid in places having exclusive jurisdiction.

III. Provided always, that the allowance of two justices of the peace for the county, within which the place in which such child shall be intended to serve an apprenticeship shall be situated, shall be valid and effectual, although such place may be situated in a town or liberty within which any other justices of the peace may in other respects have an exclusive jurisdiction.

Distance to which apprentices bound not limited to cities which are counties of themselves.

IV. "And whereas there are several cities and boroughs which are counties of themselves, and several districts situated without the limits of the county to which such districts respectively belong:" Be it enacted, that the distance to which parish apprentices may be bound, shall not be construed to be limited to such cities and boroughs being counties, but shall extend to the county in which any such city and borough, and any such district, though belonging to another county, shall be locally situated.

No settlement gained, unless directions complied with.

V. No settlement shall be gained by any child who shall be bound by the officers of any parish, township, or place, by reason of such apprenticeship, unless such order shall be made, and such allowances of such indenture of apprenticeship shall be signed as hereinafter directed.

Overseers binding apprentices contrary hereto.

VI. In case any overseer or overseers shall bind an apprentice to any person or persons, without having obtained such order and such allowances as hereinbefore required, and in case any person or persons shall receive any such apprentice as so bound, without such order and allowances having been first obtained, the said overseer or overseers, and the said person or persons, shall each respectively forfeit the sum of ten pounds for each apprentice so bound, to be recovered as the penalties hereinafter given are directed to be recovered.

Penalty.

Children not to be bound

VII. From and after the said first day of October, it shall not be lawful for any parish officers to bind out any child as

APPRENTICESHIP—NOTICE AND ALLOWANCE OF INDENTURES—*cont.*

Decisions on sect. 2.

Before 56 Geo. 3, c. 139, the assent of justices to the binding of a pauper apprentice was judicial; and it was necessary that the instrument should show on its face, that the justices gave their assent within their jurisdiction. Where this did not appear, the indenture of apprenticeship was invalid, and no settlement could be gained by residence and service under the apprenticeship: *Staverton v. Ashburton*, 4 E. & B. 526; 24 L. J. M. C. 53; 1 Jur. (N. S.) 233; 24 L. T. 214.

An order for binding a pauper child apprentice, under 56 Geo. 3, c. 139, purported to be made by "two justices for the county of Middlesex," and to be signed and sealed by them at "the Police Office, Hatton Garden." In the Metropolitan Police Act (10 Geo. 4, c. 44), "Hatton Garden" is mentioned as one of the places in Middlesex forming the Holborn division of the Metropolitan Police District. Held, that jurisdiction sufficiently appeared on the face of the order, as the court would take judicial notice from the Act that Hatton Garden was in Middlesex: *Reg. v. Holborn*, 6 E. & B. 715; 25 L. J. M. C. 110; 2 Jur. (N. S.) 571.

parish apprentice, until such child shall have attained the age of nine years, anything in any Act or Acts of parliament to the contrary notwithstanding.

till they have attained nine years.

VIII. If any person or persons to whom any child shall be bound apprentice by the overseers of the poor of any parish or place, shall after the said first day of October remove his, her, or their residence or establishment of business, out of the same county, or forty miles from the parish or place wherein the same was when such child was bound apprentice, such person or persons shall, at least fourteen days previous to such removal, give a written notice thereof to the churchwardens or overseers of the poor of the place where such apprentice shall then reside, unless such person or persons shall reside in such place under certificate; and in that case such person shall give the like notice to the churchwardens or overseers of the poor of the place where such apprentice shall then be legally settled, and which churchwardens and overseers, and also the master or masters, mistress or mistresses of such apprentice, shall cause such apprentice to appear before two of His Majesty's justices of the peace for the county or district within which such apprentice shall be then serving, who shall inquire whether it may be fit and proper that such apprentice should continue in the service of such person or persons, or be discharged therefrom, or bound or assigned over to any other person or persons, and shall thereupon make order, either for the continuance of such apprentice with such person or persons, or for the discharge of such apprentice, or for the binding or assigning of such apprentice to any other person, as to them in their discretion shall seem meet, and if they shall see fit, shall also require the person or persons so giving notice of removal, to pay the amount of the premium received with such apprentice, or such portion of it as to them shall seem meet, for the expense of assigning or binding such apprentice to any other person, to be approved by the said justices; and the person or persons to whom such apprentice shall be so bound or assigned, shall be subject to the same rules and regulations as the person or persons to whom such apprentice shall be originally bound; and in case any such master or masters, mistress or mistresses, shall remove as aforesaid, and shall take any such apprentice to any other place, without such order as aforesaid, or shall wilfully abandon and leave any such apprentice, without giving such notice as aforesaid, every person so offending shall forfeit the sum of ten pounds for every such apprentice, to the churchwardens and overseers of the poor of the parish, township, or place, wherein, at the time of such removal or taking, the apprentice shall have been legally settled, for the use of the poor of the same parish, township, or place; provided an information shall be exhibited for such offence within three calendar months next after the commission of the same.

In cases of masters' removal, &c. how apprentices shall be disposed of.

Notice of removal.

Masters, &c., removing and taking apprentices without order.

Penalty.

Provisions of
32 Geo. III.
c. 57, enforced
with respect to
assigning or
discharging
apprentices.

IX. "And whereas it may be expedient, that those to whom parish apprentices are bound or assigned should be empowered to place out or assign over such apprentice to others, and it is proper that such placing out or assignments should in all instances be under the inspection and control of the magistrates; and it is fit that the person to whom such putting out or assignment shall be made, and also the apprentice, shall be made subject to the ordinary jurisdiction of justices of the peace, with respect to masters and parish apprentices; and it is inexpedient that any master or mistress should in any way discharge or dismiss from his or her service, any parish apprentice without the consent of such justices:" Be it therefore enacted, that from and after the first day of October, in the year one thousand eight hundred and sixteen, it shall not be lawful for any master or mistress to put away or transfer any parish apprentice to any other, or in any way to discharge or dismiss from his or her service any parish apprentice without such consent of justices, as is directed in an Act passed in the thirty-second year of the reign of His present Majesty, intituled, "An Act for the further Regulation of Parish Apprentices;" and that no settlement shall be gained by any service of such apprentice, after such putting away or transfer, unless such service shall have been performed under the sanction of such consent as aforesaid.

Discharging
apprentices
without
consent of
justices.

Penalty.

X. Any person or persons, who after the first day of October, in the year one thousand eight hundred and sixteen, shall put away or transfer any parish apprentice to another, or who shall in any way discharge or dismiss from his or her service any parish apprentice without such consent as aforesaid, shall forfeit a sum not exceeding ten pounds, for every apprentice so transferred (a).

(a) See 20 Geo. 2, c. 19, s. 3; and 32 Geo. 3, c. 57, s. 11.

APPRENTICESHIP—TERMINATION OF INDENTURES.

Decisions on
sect. 9.

The bankruptcy of the master does not dissolve the apprenticeship: *Puckington v. Chepton Beencham*, 2 Ld. Raym. 1352; Str. 582.

An apprentice gained a settlement by serving forty days in a different parish, under an assignment made by the assignee of the widow of the original master: *Rex v. Bridgeford*, Burr. S. C. 133; Str. 1125.

An apprentice could not gain a settlement by serving a new master in a different parish without an assignment, or consent of the original master: *Rex v. St. Luke, Middlesex*, Burr. S. C. 542; 1 Bl. 553.

An apprenticeship is dissolved by the master telling the apprentice that he might go where he pleased, and giving up his indentures: *Rex v. Notton*, Burr. S. C. 629.

If an apprentice was put away without the consent of justices, within the meaning of 56 Geo. 3, c. 139, s. 9, no settlement was gained by hiring and service: *Rex v. Shipton*, 8 B. & C. 88.

Circumstances which constitute a "placing out," within 56 Geo. 3, c. 139, s. 9, without the consent of justices, so that no settlement was acquired: *Rex v. Wainfleet All Saints*, 11 A. & E. 656; 9 L. J. M. C. 31.

XI. "And whereas the salutary provisions enacted by an Act 43 Eliz. c. 2. passed in the forty-third year of the reign of her Majesty Queen Elizabeth, intituled, 'An Act for the Relief of the Poor,' are frequently evaded in the binding out of poor children, and the premium of apprenticeship, or a part thereof, is clandestinely provided by parish officers who are thus enabled to bind out such poor children, without the sanction of justices of peace:" Be it further enacted, that after the said first day of October, no indenture of apprenticeship, by reason of which any expense whatever shall at any time be incurred by the public parochial funds, shall be valid and effectual, unless approved of by two justices of the peace, under their hands and seals, according to the provisions of the said Act and of this Act.

Indentures not valid, unless approved by two justices.

XII. All penalties and forfeitures hereby imposed for any offence against this Act shall and may be recovered by information before any two justices of the peace of the county or district where such offence shall be committed.

Penalties, how recovered.

XIII. It shall and may be lawful to and for the justices before whom any such penalty shall be recovered, to direct such penalty, after deducting the necessary costs and charges attending any information, and the proceedings thereon, to be paid, applied, and distributed, either to the person or persons giving information of the offence for which such penalty shall be incurred, or to the overseer of the poor of the parish or township in which the offence shall have been committed, or by the officers whereof such apprentice shall have been bound, for the use of the poor of such parish or township, or in the binding of the apprentice, respecting whom such offence shall be committed, to any other person, or to be distributed and applied for any one or more of such purposes, as to such justices shall seem meet.

Justices empowered to dispose of penalties.

XIV. In case of non-payment of any penalty hereby imposed, the same shall be levied by distress and sale of the offender's goods and chattels, by warrant under the hands and seals of the

Recovery of penalties.

APPRENTICESHIP—APPROVAL OF JUSTICES.

In order to make an indenture by reason of which any expense had been incurred by the parish valid and effectual, the approval of two justices should be under their hands and seals: *Rex v. Stoke Damarel*, 7 B. & C. 563. *Decisions on sect. 11.*

Money given by parish officers to buy clothes for the apprentice was an expense incurred by reason of the indenture of apprentice within 56 Geo. 3, c. 139, s. 11, and the indenture required the assent of two justices: *Rex v. Mattishall*, 8 B. & C. 733.

The income from lands devised for the purpose of binding poor children apprentices does not constitute public parochial funds within 56 Geo. 3, c. 139, s. 11: *Rex v. Halesworth*, 3 B. & Ad. 717.

A person of the age of twenty-one years was not a poor child whom the overseers could bind apprentice with the assent of justices, under 56 Geo. 3, c. 139: *Rex v. St. John, Bedwardine*, 5 B. & Ad. 169.

justices before whom such offender shall have been convicted, or of any other two justices of the peace of the same county or district; and for want of such distress, such offender shall be committed to the common gaol or house of correction for any period not less than one, nor more than six months, to be appointed by the justices before whom such offender shall be convicted.

Form of
conviction.

XV. The conviction of all offences against this Act shall be in the form following; that is to say (a),

“Be it remembered, that on the day of
“in the year of our Lord is convicted before us
“ of His Majesty’s justices of the peace for the
“county of upon the information of for that
“[*here state the offence*] contrary to the form of the statute
“passed in the fifty-sixth of the reign of His Majesty King
“George the Third, intituled ‘An Act to regulate the binding
“of Parish Apprentices,’ and for which offence we do adjudge
“that the said shall forfeit and pay the sum of
“to be paid and applied as follows [*here state the application*
“of the penalty] and in case such penalty shall not be paid
“by the said or levied by distress upon goods
“and chattels, within days from the date of this
“conviction, we adjudge that the said shall be
“imprisoned in for the space of Given under
“our hands and seals the day and year first above men-
“tioned.”

Not paying
penalty.

XVI. In case any person convicted for any offence against this Act shall not pay the penalty imposed by such conviction, within one calendar month next after such conviction shall take place, it shall be lawful to and for the justices making such conviction, or for any two other justices of the county or district, to issue their warrant for the apprehending and imprisoning of such offender, notwithstanding such offender may have goods or chattels whereby such penalty might have been levied.

Inprisonment.

Appeal.

XVII. Any person or persons who shall be dissatisfied with any act done by any justice or justices of the peace in the execution of this Act, may appeal against the same to any court or general or quarter sessions to be holden for the county within which such act shall have been done, within three calendar months after the fact so complained of, upon giving notice in writing to such justice or justices, and also to the person or persons who shall be interested in such appeal, within twenty-one days next after the act so appealed against shall have taken place; and in case such appeal shall be against any conviction, entering into a recognizance, with two sufficient sureties, before any justice of the peace of the county or district

within which such conviction shall have taken place, to appear at such general or quarter sessions to abide the judgment of the court upon such appeal, and to pay the costs which may be awarded thereon; and that it shall and may be lawful to and for the justices at such sessions to hear and determine the matter of such appeal, and to award costs therein, as they in their discretion shall think fit; and all such appeals shall be to the sessions of the county within which the act appealed against shall have taken place, and not to any district or liberty within the same.

XVIII. The provisions and penalties herein contained respecting overseers of the poor, shall be deemed to extend to all churchwardens having the power and authority of overseers of the poor; and that all the provisions herein-mentioned and contained respecting any parish or place, shall extend to any incorporated or other district for the maintenance of the poor; and that the officers of any such district, having power to bind apprentices, shall be subject to all the rules, regulations, and penalties herein-mentioned and contained respecting overseers of the poor.

Power of overseers extended to churchwardens.

57 GEO. III. CHAP. 91.

AN ACT to enable Justices of the Peace to settle the Fees to be taken by the Clerks of the Peace of the respective Counties and other Divisions of England and Wales (b).

[10th July, 1817.]

“ WHEREAS doubts have arisen touching the fees and allowances due and to be made to the clerks of the peace of the several counties and other divisions in England and Wales:” For the removing of such doubts, be it enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the first day of July next, it shall and may be lawful to and for the justices of the peace for the county of Kent, and for the county palatine of Lancaster, at their annual general sessions of the peace, and for the justices of the peace in every other county, riding, division, city, town, liberty, or precinct, within England and Wales, at their respective general quarter sessions of the peace, to ascertain, make, and settle a table of fees and allowances to be taken by the clerk of the peace for such county of Kent and such county palatine, and such other counties, ridings, divisions, cities, towns, liberties

Justices of peace for Kent and Lancashire, at their annual general, and for every other county, &c., at their general quarter sessions, to settle a table of fees to be taken by

(b) See 26 Geo. 2, c. 14; 27 Geo. 2, c. 16; and 11 & 12 Vict. c. 43, s. 30.

the clerks of the peace for the said counties. Such table to be laid before judges of assize.

and precincts respectively (a); and such table of fees and allowances, when so made, shall be subject to the approbation of the justices of the peace at the then next succeeding general annual session of the peace for the county palatine of Lancaster, and for the county of Kent, and at the then next succeeding general quarter session of the peace for every other such county, riding, division, city, town, liberty, or precinct as aforesaid, or at some adjournment of such sessions respectively; and such table of fees respectively, when so approved respectively, shall be laid before the judges of assize at the next assizes for such counties and places respectively, except the several places being counties in which assizes are not constantly or regularly holden in every year, and in those cases before the justices at the next assizes for the adjoining county where assizes are constantly and regularly holden, and to which prisoners are generally removed for trial from such places respectively, and also except the counties in Wales and the county palatine of Chester, and before the justices at the next great sessions for the several counties in Wales, and for the county palatine of Chester; and the said judges and justices respectively are hereby authorized to ratify and confirm such tables respectively, either as settled and approved as aforesaid, or with such alterations, additions, and improvements as to such judges and justices last mentioned shall appear to be just and reasonable; and it shall be lawful for the said justices of the peace, at their respective quarter or general sessions of the peace, from time to time in like manner to make other table of fees and allowances, instead of or in addition to the tables of fees and allowances before made, which shall and may be approved and afterwards ratified and confirmed in like manner; which fees and allowances contained in such tables respectively, when so made and approved, and afterwards ratified and confirmed as aforesaid, shall be the only fees and allowances which shall be taken by the clerks of the peace of the several counties and places for which such tables respectively shall be so made, approved, ratified, and confirmed, from and after such ratification and confirmation thereof respectively; anything in any Act or Acts of parliament, or any law, usage, or custom to the contrary in anywise notwithstanding (b).

Fees in such tables, when approved by judges, to be the only fees.

Clerks of the peace taking greater fees than allowed,

II. If at any time after any such table of fees and allowances shall have been so ratified and confirmed as aforesaid, any clerk of the peace, or any person or persons acting as such, shall, under pretence of any matter or thing done, transacted, or performed, demand or receive any other or greater fee or allowance, than the fee or allowance, fees or allowances, ascertained, ratified, and confirmed as aforesaid, such clerk of the peace or other person shall for every such offence forfeit and pay the sum

(a) See 11 & 12 Vict. c. 43, s. 30;
14 & 15 Vict. c. 55, ss. 9, 12.

(b) See also 7 & 8 Vict. c. 101,
s. 39.

of five pounds to any person who shall sue for the same by penalty 5*l*. action of debt, bill, plaint, or information in any of His Majesty's courts of record at Westminster, wherein no essoin, privilege, protection, wager of law, or more than one imparlance shall be granted or allowed (c).

III. Every table of fees and allowances which shall be made, Printed or approved, ratified, and confirmed from time to time as aforesaid, shall be deposited with the clerk of the peace for the county or place for which such table of fees shall have been so made, ap- of such table of fees to be hung up in some conspicuous place where the general or quarter sessions shall be held. proved, ratified, and confirmed as aforesaid; and a true and exact written or printed copy or copies thereof shall be placed and constantly kept in a conspicuous part of every room or place wherein any general or quarter sessions of the peace for such county or place shall be held; and if any clerk of the peace, or person acting as such, shall at any time neglect to cause every such copy to be so placed and constantly kept according to the provisions of this Act, he shall forfeit and pay to any person who shall sue for the same, for every such offence, the sum of five pounds, to be recovered by action of debt, bill, plaint, or information in any of His Majesty's courts of record at Westminster, wherein no essoin, privilege, protection, wager of law, nor more than one imparlance shall be granted or allowed. penalty 5*l*.
Clerks of the peace neglecting;

IV. All suits and actions which shall be brought or com- Limitation of menced by virtue of this Act, shall be brought before the end of three calendar months after the offence committed, and not otherwise. actions.

57 GEO. III. CHAP. 93.

AN ACT to regulate the Costs of Distresses levied for Payment of Small Rents (d).

[10th July, 1817.]

“WHEREAS divers persons acting as brokers, and distraining on the goods and chattels of others, or employed in the course of such distresses, have of late made excessive charges, to the great oppression of poor tenants and others; and it is expedient to check such practices;” Be it therefore enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present

(c) See 7 & 8 Vict. c. 101, s. 39. 7 & 8 Geo. 4, c. 17; 5 & 6 Will.

(d) See 43 Eliz. c. 2, s. 2; 17 Geo. 4, c. 50, s. 34; and 12 & 13 Vict. 2, c. 38, s. 7; 54 Geo. 3, c. 170, s. 12; c. 14.

No person making distress for rent, where the sum due shall not exceed 20*l.*, to take other charges than mentioned in the Schedule annexed;

nor to charge for any act not done.

Party aggrieved by any such practice may apply to a justice of the peace.

Justice may adjudge treble the amount of the monies unlawfully

parliament assembled, and by the authority of the same, that from and after the passing of this Act, no person whatsoever making any distress for rent, where the sum demanded and due shall not exceed the sum of twenty pounds for and in respect of such rent, nor any person whatsoever employed in any manner in making such distress, or doing any act whatsoever in the course of such distress, or for carrying the same into effect, shall have, take, or receive, out of the produce of the goods or chattels distrained upon and sold, or from the tenant distrained on, or from the landlord, or from any other person whatsoever, any other or more costs and charges for and in respect of such distress, or any matter or thing done therein, than such as are fixed and set forth in the Schedule hereunto annexed, and appropriated to each act which shall have been done in the course of such distress; and no person or persons whatsoever shall make any charge whatsoever for any act, matter, or thing mentioned in the said Schedule, unless such act shall have been really done.

II. If any person or persons whatsoever shall in any manner levy, take, or receive from any person or persons whatsoever, or retain or take from the produce of any goods sold for the payment of such rent, any other or greater costs and charges than are mentioned and set down in the said Schedule, or make any charge whatsoever for any act, matter, or thing mentioned in the said Schedule, and not really done, it shall be lawful for the party or parties aggrieved by such practices to apply to any one justice of the peace for the county, city, town, and acting for the division where such distress shall have been made or in any manner proceeded in, for the redress of his, her, or their grievance so occasioned; whereupon such justice shall summon the person or persons complained of to appear before him at a reasonable time to be fixed in such summons; and such justice shall examine into the matter of such complaint by all legal ways and means, and also hear in like manner the defence of the person or persons complained of; and if it shall appear to such justice that the person or persons complained of shall have levied, taken, received, or had other and greater costs and charges than are mentioned or fixed in the Schedule hereunto annexed, or made any charge for any matter or thing mentioned in the said Schedule, such act, matter or thing not having been really done, such justice shall order and adjudge treble the amount of the monies so unlawfully taken to be paid by the person or persons so having acted to the party or parties who shall thus have preferred his, her, or their complaint thereof, together with

EXCESSIVE DISTRAINT.

Decision on
sect. 1.

A charge of 2*s.* 6*d.* a day for a man in possession of a grass crop distrained for arrears of rentcharge less than 20*l.* in amount is excessive, notwithstanding 57 Geo. 3, c. 93, s. 1: *Ex parte Arnison, in re Heysham v. Heskett*, 37 L. J. Exch. 57.

full costs ; and in case of non-payment of any monies or costs so ordered and adjudged to be paid, such justice shall forthwith issue his warrant to levy the same by distress and sale of the goods and chattels of the party or parties ordered to pay such monies or costs, rendering the overplus (if any) to the owner or owners, after the payment of the charges of such distress and sale ; and in case no sufficient distress can be had, such justice shall by warrant under his hand commit the party or parties to the common gaol or prison within the limits of the jurisdiction of such justice, there to remain until such order or judgment be satisfied.

taken to be paid, with costs, which may be levied by distress.

If no distress, imprisonment.

III. It shall be lawful for such justice, at the request of the party complaining or complained against, to summon all persons as witnesses, and to administer an oath to them touching the matter of such complaint or defence against it ; and if any person or persons so summoned shall not obey such summons without any reasonable or lawful excuse, or refuse to be examined upon oath, or if a Quaker upon solemn affirmation, then every such person so offending shall forfeit and pay a sum not exceeding forty shillings, to be ordered, levied and paid in such manner, and by such means, and with such power of commitment as is hereinbefore directed as to such order and judgment to be given between the party or parties in the original complaint, excepting so far as regards the form of the order, and hereinafter provided for.

Justices may summon witnesses.

Refusing to attend or be examined ; penalty.

IV. It shall be lawful for such justice, if he shall find that the complaint of the party or parties aggrieved is not well founded, to order and adjudge costs, not exceeding twenty shillings, to be paid to the party or parties complained against, which order shall be carried into effect, and levied and paid in such manner and with like power of commitment, as is hereinbefore directed as to the order and judgment founded on such original complaint : Provided always, that nothing herein contained shall empower such justice to make any order or judgment against the landlord for whose benefit any such distress shall have been made, unless such landlord shall have personally levied such distress : Provided always, that no person or persons who shall be aggrieved by any distress for rent, or by any proceedings had in the course thereof, or by any costs and charges levied upon them in respect of the same, shall be barred from any legal or other suit or remedy which he, she, or they might have had before the passing of this Act, excepting so far as any complaint to be preferred by virtue of this Act shall have been determined by the order and judgment of the justice before whom it shall have been heard and determined ; and which order and judgment shall and may be given in evidence, under the plea of the general issue, in all cases where the matter of such complaint shall be made the subject of any action.

If complaint unfounded, justice may give costs to the party complained against.

No judgment to be given against any landlord, unless he personally levies the distress.

Parties not barred of other legal remedies.

Order of justice may be given in evidence.

Signature of
justice proof
of judgment.

V. Such orders and judgments on such complaints shall be made in the form in the Schedule hereunto annexed, and may be proved before any court by proof of the signature of the justice to such order and judgment; and such orders as regard persons who may have been summoned as witnesses shall be made in such form as to such justice shall seem most fit and convenient.

Brokers to
give copies of
their charges
to persons
distrained.

VI. Every broker or other person who shall make and levy any distress whatsoever shall give a copy of his charges, and of all the costs and charges of any distress whatsoever, signed by him, to the person or persons on whose goods and chattels any distress shall be levied, although the amount of the rent demanded shall exceed the sum of twenty pounds.

Printed copy
of Act to be
hung up in
sessions house.

VII. A fair printed copy of this Act shall be hung up in some convenient place in such halls or rooms where the justices of each and every county in England and Wales shall hold either their quarter or other sessions.

(First SCHEDULE of Forms) (a).

SCHEDULE of the Limitation of Costs and Charges on Distresses for Small Rents :—

	£	s.	d.
Levying distress	0	3	0
Man in possession, per day	0	2	6
Appraisement, whether by one broker or more, sixpence in the pound on the value of the goods.			
Stamp, the lawful amount thereof.			
All expenses of advertisements, if any such	0	10	0
Catalogues, sale, and commission, and delivery of goods, one shilling in the pound on the net produce of the sale.			

58 GEO. III. CHAP. 69.

AN ACT for the Regulation of Parish Vestries (b).

[3rd June, 1818.]

“WHEREAS it is expedient to regulate the manner of holding parish vestries, and the right of voting therein;” May it please your Majesty that it may be enacted, and be it enacted, by the

(a) See the Schedules to 12 & 13 (b) See 59 Geo. 3, c. 85; and Vict. c. 14, which supersede the 1 Vict. c. 45. forms in this Act, so far as they are applicable to the poor rates.

King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the first day of July, one thousand eight hundred and eighteen, no vestry or meeting of the inhabitants in vestry of or for any parish shall be holden until public notice shall have been given of such vestry, and of the place and hour of holding the same, and the special purpose thereof, three days at the least before the day to be appointed for holding such vestry, by the publication of such notice [*in the parish church or chapel on some Sunday during or immediately after divine service (c)*], and by affixing the same, fairly written or printed, on the principal door of such church or chapel (*d*).

Three days' notice to be given of vestries; by publication in church, and affixing on church door.

(c) Repealed by 1 Vict. c. 45, s. 1. (d) See 1 Vict. c. 45; and 33 & 34 Vict. c. 53, s. 3.

NOTICE OF VESTRY MEETINGS.

Vestries for church matters regularly are to be called by the churchwardens, with the consent of the minister: *Dawe v. Williams*, 2 Addams, *Decisions on* sect. 1. 139.

It is not necessary in all cases that notice should be given of the specific purpose for which a parish vestry is convened. This was with reference to a church rate: *Clutton v. Cherry*, 2 Phil. 372.

A notice of vestry meeting, published in pursuance of 58 Geo. 3, c. 69, s. 1, stated the purpose of it to be "to receive a report from the church committee, and to adopt such measures as may appear necessary for carrying that report into execution." Held, that this was a sufficient notice of the intention to propose borrowing money on the church rates for the purpose of executing certain plans: *Blunt v. Harwood*, 8 A. & E. 610; 3 N. & P. 577; 7 L. J. M. C. 107.

A new church, built in place of an ancient chapel (which latter continued to be occasionally used), was held to be *de facto* the church of the place; and the publication of a poor rate, by a notice affixed at or near the principal door thereof only, was sufficient: *Ormerod v. Chadwick*, 16 L. J. M. C. 143.

If due notice of an original meeting of vestry and the purpose thereof be given, no notice of the purpose of adjourned meetings is necessary: *Lorant v. Scadding*, 19 L. J. M. C. 5; 3 H. L. Ca. 418; *Scadding v. Lorant*, 17 L. T. 225; S. P. *Kerr v. Wilkie*, *post*, p. 380.

The following was held a sufficient notice, pursuant to 58 Geo. 3, c. 69, s. 1:—"Notice is hereby given, the churchwardens, overseers, and other principal inhabitants of this parish are requested to meet in the vestry, on Wednesday, the 14th July inst., at half-past nine o'clock in the forenoon, to examine the churchwardens' accounts, and to grant them a rate. Given under our hands, the 30th July, 1848.—J. Rand, W. Grimwade, Churchwardens:—" *Rand v. Grimwade*, 6 Jur. (N. S.) 303; S. C. *Rand v. Green*, 24 J. P. 790; 30 L. J. C. P. 80; 9 C. B. (N. S.) 470.

In an ecclesiastical district created by the Church Building Acts, notice of a vestry meeting for the election of churchwardens was affixed to the church door on Good Friday, and the election took place on Easter Tuesday. This notice was held sufficient; and also that 58 Geo. 3, c. 69, s. 1, as to publication of notice, is applicable only to the ordinary parish vestries, and not to vestries of districts for ecclesiastical purposes: *Reg. v. Barrow*, 20 L. T. (N. S.) 607; L. R. 4 Q. B. 577; 10 B. & S. 674.

Chairman of vestries appointed;

to have casting vote.

Minutes to be entered and signed.

II. And for the more orderly conduct of vestries, be it further enacted, that in case the rector or vicar, or perpetual curate shall not be present, the persons so assembled in pursuance of such notice shall forthwith nominate and appoint by plurality of votes, to be ascertained as hereinafter is directed, one of the inhabitants of such parish to be the chairman of and preside in every such vestry: and in all cases of equality of votes, upon any question arising therein, the chairman shall (in addition to such vote or votes as he may by virtue of this Act be entitled to give in right of his assessment) have the casting vote; and minutes of the proceedings and resolutions of every vestry shall be fairly and distinctly entered in a book (to be provided for that purpose by the churchwardens and overseers of the poor), and shall be signed by the chairman, and by such other of the inhabitants present, as shall think proper to sign the same (a).

(a) See 13 & 14 Vict. c. 57, s. 7.

VESTRY MEETINGS.

Decisions on sect. 2.

The right to adjourn a vestry meeting is in the parish at large, and not in the vicar: *Stoughton v. Reynolds*, Str. 1045; but see *Reg. v. Doyley*, 12 A. & E. 139, *infra*.

Mandamus will not lie to appoint a vestry clerk. The inhabitants may elect a different clerk at each vestry, and no salary or fees can in such case be paid out of the poor rates: *Rex v. Croydon*, 5 T. R. 714.

The minister of the parish has a right to preside at vestry meetings. The Ecclesiastical Court has jurisdiction, *ratione loci*, over the order and proceedings of vestry meetings held in a church; and therefore where a rector had libelled in that court a parishioner for preventing him presiding as chairman at such a meeting, a prohibition was refused: *Wilson v. McMath*, 3 B. & Ald. 241.

The vicar of the parish is not an integral part of the vestry, and its acts may be valid though he be not present: *Mawley v. Barbet*, 2 Esp. 687.

At a vestry meeting summoned by the churchwardens, the rector has a right to preside; and he may adjourn the meeting, though against the wish of the majority present, on his legal responsibility if in so doing he improperly disturbs the proceedings. If a poll be demanded, he may on his own authority grant it: *Reg. v. Doyley*, 12 A. & E. 139; S. C. *Reg. v. Lambeth*, 9 L. J. M. C. 113, 117; 4 P. & D. 52, 61.

Notice of a vestry meeting affixed on the parish church door, and addressed "to the churchwardens, overseers, and principal inhabitants of this parish" is a valid notice, though it do not name the parish, and although it is addressed to the principal inhabitants: *Rand v. Green*, 7 Jur. (N. S.) 126.

A vestry held without due notice is in the eye of the law no vestry at all: *Reg. v. Surrey JJ.*, 11 J. P. 372.

With reference to the adoption of the Lighting and Watching Act in a parish, it was held that though the statute probably intended that the chairman of the meeting of ratepayers should be a ratepayer himself, yet though he was not, the proceeding was not thereby rendered invalid: *Reg. v. Middlesex JJ.*, 22 L. J. M. C. 106; 17 Jur. 187.

It has been held, with reference to 18 & 19 Vict. c. 120, s. 21, Metropolis Local Management Act, that an intentional obstruction of the voting, by actual violence, is an offence within that Act: *Buckmaster app., Reynolds resp.*, 13 C. B. (N. S.) 62.

III. In all such vestries, every inhabitant present (*b*) who shall, by the last rate which shall have been made for the relief of the poor, have been assessed and charged upon or in respect of any annual rent, profit, or value not amounting to fifty pounds, shall have and be entitled to give one vote and no more; and every inhabitant there present, who shall in such last rate have been assessed or charged upon or in respect of any annual rent or rents, profit or value, amounting to fifty pounds or upwards (whether in one or in more than one sum or charge), shall have and be entitled to give one vote for every twenty-five pounds of annual rent, profit, and value upon or in respect of which he shall have been assessed or charged in such last rate, so nevertheless that no inhabitant shall be entitled to give more than six votes; and in cases where two or more of the inhabitants present shall be jointly rated, each of them shall be entitled to vote according to the proportion and amount which shall be borne by him of the joint charge; and where one only of the persons jointly rated shall attend, he shall be entitled to vote according to and in respect of the whole of the joint charge (*c*).

Manner of
voting in
vestries.

- (*b*) See 32 & 33 Vict. c. 41, ss. 7, s. 15; 3 & 4 Will. 4, c. 90, s. 14; 15. 4 & 5 Will. 4, c. 76, s. 40; 7 & 8
(*c*) See 59 Geo. 3, c. 12, s. 35; 59 Vict. c. 101, s. 14; 12 & 13 Vict. Geo. 3, c. 85; 1 & 2 Will. 4, c. 60, c. 63, s. 20; 16 & 17 Vict. c. 65.

VESTRY MEETINGS—continued.

Vestry meetings held by adjournment are considered as part of the original meeting; and in the absence of any provision as to notice for such meetings, no notice whatever is necessary for the adjourned meeting: *Kerr v. Wilkie*, 24 J. P. 211; *S. P. Lorant v. Scadding*, ante, p. 379. Decisions on sect. 2.

Though the publication of a report of a trial in a court of justice, in the course of which a libel is read, would be privileged, a publication of the proceedings of a parish vestry, at which a libel is read, is not so privileged: *Popham v. Pickburn*, 31 L. J. Exch. 133.

When an amendment is moved directly negating an original motion, it is not necessary to take a poll upon each; and no amendment can be brought forward after the close of the poll: *Reg. v. Roberts*, 3 B. & S. 495; 32 L. J. Q. B. 150.

If no poll be taken after it has been demanded at a vestry, the proceeding had at the vestry will be void: *Reg. v. Cooper*, L. R. 5 Q. B. 457.

VOTING AT VESTRY MEETINGS.

In a parish poor rates, according to an ancient custom, had always been made without respect to the value of the property in the parish, but according to the supposed ability of the persons charged; and it was held that persons so rated were not entitled to more than one vote at vestry meetings, although rated upon more than 50*l.*: *Nightingale v. Marshall*, 2 B. & C. 313; 3 D. & R. 549. Decisions on sect. 3.

In a case where vestrymen were empowered to vote in the matter of a charitable trust, it was held that their votes were to be taken *per capita*, and not according to 58 Geo. 3, c. 69 s. 3: *Attorney-General v. Wilkinson*, 3 Brod. and Bing. 266; 7 Moore, 187.

VOTING AT VESTRY MEETINGS—*continued*.

*Decisions on
sect. 3.*

At a meeting of parishioners duly convened for the purpose of an election, it was decided before the election began that parishioners who had not paid church rates should not be allowed to vote. In consequence, several persons who had the legal right of voting did not tender their votes, and the votes of others who did tender their votes were rejected on the ground that they had not paid the church rate. Held, that a person elected by the majority of the persons whose votes were received at the meeting was not duly elected: *Faulkner v. Elger*, 4 B. & C. 449.

Where twenty-six persons were appointed a select vestry, under 58 Geo. 3, c. 45, and 59 Geo. 3, c. 50, for the care and management of a church, it was held that in order to constitute a good assembly of the vestry there must be present a majority of the number (namely 14): *Blacket v. Blizzard*, 9 B. & C. 851.

An entry in the vestry book, stating the fact of an appointment having been made (for which there was due legal authority) at a vestry duly held in pursuance of notice, is sufficient evidence of the appointment: *Reg. v. Martin*, 2 Camp. 100.

The acts of one vestry are not absolutely binding on a succeeding vestry, and they may be confirmed or rescinded by such succeeding vestry; but such confirmation is not necessary to make the acts of a preceding vestry valid: *Mawley v. Barbet*, 2 Esp. 687.

A local Act passed before 58 Geo. 3, c. 69, enacted that vacancies in the office of the guardians should be filled up by the rated inhabitants assembled in the vestry room, who should elect persons in room of those going out. Held, that after 58 Geo. 3, c. 69, the inhabitants must be allowed in such election the number of votes in proportion to their respective assessments defined in the Act: *Rex v. St. James, Clerkenwell*, 1 A. & E. 317; 3 L. J. M. C. 99; 3 N. & M. 411.

A vestry being about to be held in M. for the election of churchwardens, notice was given that the meeting would be held in the parish church, but that if a poll was demanded it would be adjourned to the Town Hall. At the meeting there was a show of hands, upon which a poll was demanded, and thereupon the chairman, without taking the sense of the meeting, adjourned the election to the Town Hall, where a poll was taken. Held, that the proceeding was regular, no business having been interrupted by it, and the adjournment, in a particular event, being part of the original appointment: *Rex v. Archdeacon of Chester*, 1 A. & E. 342; 3 L. J. M. C. 95; 3 N. & M. 413.

A vestry having, by a show of hands, passed a resolution directing an illegal application of charitable funds, and a poll having been demanded of the person presiding at the vestry, and not granted, the court refused a rule for a *mandamus* to compel such person to grant a poll: *Rex v. St. Saviour, Southwark*, 1 A. & E. 380; 3 N. & M. 878.

The right to demand a poll is by law incident to the election of a parish officer by a show of hands; and a poll may be demanded after the chairman has declared the result of a show of hands: *Campbell v. Maund*, 5 A. & E. 865; 1 N. & P. 558.

At an election in vestry where the right of voting is regulated by 58 Geo. 3, c. 69, s. 3, it is no objection to the proceedings that the chairman directed a poll without first taking a show of hands, although a show of hands was demanded, and the poll was not demanded, but objected to: *Rex v. Birmingham*, 7 A. & E. 254.

If at a vestry a poll be demanded, the votes are to be given by the qualified inhabitants present; but all qualified inhabitants (whether they were present or not at the show of hands) have a right to be admitted into the vestry room and vote during the poll: *Reg. v. Rector, &c., of St. Mary, Lambeth*, 8 A. & E. 356; 3 N. & P. 416.

VOTING AT VESTRY MEETINGS—*continued*.

When a poll is demanded, the election commences with it, as being the regular mode of popular election, the show of hands being only a rude and imperfect declaration of the sentiments of the electors. When a poll is demanded, it is an abandonment of what was done before, and everything anterior is not of the substance of the election nor to be so received: *Anthony v. Leger*, 1 Hag. Ca. Con. Court, 13. *Decisions on sect. 3.*

A poll having been demanded at a vestry meeting, the chairman immediately adjourned the meeting to the Town Hall, where the poll was taken. Held, that the proceeding was regular, no business having been interrupted by it, and the adjournment being part of the original appointment of the meeting. The Town Hall was held not to be an improper place to take the poll by reason of its being private property, no person having been prevented from voting on that account. The time for taking the poll was limited to eleven hours. This was held sufficient time, if due diligence was used in taking it—785 being the greatest number polled on any occasion: *Baker v. Wood*, 1 Curt. 507.

If it be made to appear that a considerable number of the parishioners are desirous of having a vestry called, and they are not enabled to call a vestry, from the refusal of the minister and churchwardens to aid them in doing so, the court will grant a *mandamus* to convene a vestry; there must, however, be sufficient cause shown: *Rex v. Stoke Damerel*, 6 L. J. M. C. 14.

A poor rate, which is lawfully made in other respects, is not rendered invalid by the circumstance that some of the vestrymen, who concurred in making it, were vestrymen *de facto*, and not *de jure*. Where notice of the purpose of a vestry meeting has been duly given, and that meeting has begun, but not completed a certain business, and the meeting is regularly adjourned, such business may lawfully be completed at the adjourned meeting, though the notice for summoning such adjourned meeting does not state the purpose for which it was summoned, as in point of law all the meetings constitute one meeting: *Scadding v. Lorant*, 3 Ho. of Lords Cas. 418; 19 L. J. M. C. 5; 17 L. T. 225; 15 Jur. 955.

Persons voting for an amendment moved at a vestry meeting were to be considered as having declined to join in the proceedings of the meeting, the amendment having no reference to the object for which the vestry was announced under a monition: *Gosling v. Veley*, 12 Q. B. 328.

Where thirty-seven ratepayers attended a meeting, and twenty voted one way and the remainder abstained from voting, it was held, that the question before the meeting was not carried by the votes of the twenty: *Reg. v. Eynsham*, 12 Q. B. 398.

Where votes at a vestry meeting were rejected on the ground that the persons claiming were not entitled to vote, on a rule *nisi* for a *mandamus* to convene a vestry and proceed to an election, it was held, that as the election could not, on the ground alleged, be considered null and void, and it was not shown that the result of the election would have been different, the application for the *mandamus* was refused: *Ex parte Joyce*, 23 L. J. M. C. 153.

The proper method of taking the votes at a vestry is by a poll, the meeting being adjourned for that purpose, if necessary or convenient: *Re Egham Burial Board*, 3 Jur. (N. S.) 956; 29 L. T. 343.

If a returning officer, without malice or any improper motive, but exercising his judgment honestly, refuse to receive the vote of a person entitled to vote at an election, no action will lie against him at the suit of such person: *Tozer v. Child*, 26 L. J. Q. B. 151; 3 Jur. (N. S.) 409; 28 L. T. 309; 21 J. P. 516.

At a vestry meeting the chairman refused to take a show of hands, but proceeded to write down the names of the ratepayers present, and the number of votes they were entitled to, and then declared the result. The

VOTING AT VESTRY MEETINGS—*continued.*

*Decisions on
sect. 3.*

proceedings were protested against, and a poll demanded, which was refused. The court refused a *mandamus* for a new election, it not appearing by the affidavits that any one had, by the irregular proceedings, been prevented from voting, or that any practical injustice had resulted from it: *Reg. v. Goole*, 4 L. T. (N. s.) 322.

At a vestry, on an amendment moved, and it being difficult to tell the numbers on a show of hands, the chairman suggested that the names be taken down in writing, to which no objection was made. The supporters of the amendment, seeing that the numbers would be against them, demanded during the reckoning a poll, and moved, "That the vestry be kept open till Saturday." The chairman refused to grant a poll, on the ground that there was a resolution pending and not disposed of. It was held, that the poll ought to have been granted, there being substantially a demand for it, and *mandamus* went to the rector to reassemble the vestry and grant a poll: *Reg. v. Walters*, 24 J. P. 421.

If a meeting of a vestry agree to a poll being taken according to a particular statute relating to the subject matter to be decided, no one is entitled afterwards to demand a poll of the whole parish: *Reg. v. Hillingdon*, 18 Q. B. 718.

In the election of a surveyor of the highways, under 5 & 6 Will. 4, c. 50, s. 6, an inhabitant occupying property liable to be assessed to the highway rate is entitled to vote, though he has never been actually rated to the highway rate: *Reg. v. Kershaw*, 6 E. & B. 999; 2 Jur. (N. s.) 1139; 26 L. J. M. C. 19.

A local Act empowered vestrymen, or "the major part of them," to remove the poor rate collector from his office. Held, that the major part should be an actual majority of the vestrymen assembled; and that it was not sufficient at a meeting consisting of thirty-five for sixteen to vote one way and eleven the other, the remaining eight abstaining from voting altogether: *Reg. v. Christchurch, in re Baynton*, 3 Jur. (N. s.) 537; 21 J. P. 194; 28 L. T. 355; 26 L. J. M. C. 68; *in error*, 29 L. T. 328; 27 L. J. M. C. 28; 7 E. & B. 409.

When the 13 & 14 Vict. c. 99, had been adopted in a parish, the 58 Geo. 3, c. 69, and 59 Geo. 3, c. 85, (the effect of which is to make rating to the poor rate the exclusive qualification for voting in all parish vestries,) operated to deprive the occupiers of small tenements not rated to the poor rate of the right to vote at a vestry held for the purpose of making a church rate, although they were still liable to be rated to it. In such a case the rated owners only were entitled to vote in respect of small tenements; but the owners of more than six small tenements were not entitled to give more than six votes: *Richardson v. Gladwin*, 31 L. T. 97; 27 L. T. M. C. 192; 4 Jur. (N. s.) 377; 22 J. P. 688; 1 E. & B. 138. [Now see 32 & 33 Vict. c. 41.]

Where a poll was closed too soon, the main cause of it being a great disturbance caused by the agent of one of the candidates, and who also succeeded in getting a *mandamus* for a new election, the court refused to give costs of the *mandamus* against the churchwardens, on the ground that the party who obtained it was chiefly blameable: *Reg. v. Graham*, 26 J. P. 103.

Where an inhabitant is rated for property held by him in his own right, and is also one of the executors of a person deceased, who are jointly rateable as such executors, he may add to his own qualification a rateable proportion of the joint qualification of the executors, so as to obtain more votes at the vestry under 58 Geo. 3, c. 69, s. 3: *Reg. v. Kirby*, 5 L. T. (N. s.) 280; 31 L. J. Q. B. 3; 26 J. P. 196; 1 B. & S. 647.

Where the Small Tenements Act had been adopted in a parish, and persons were rated as owners under that Act, and also as occupiers in their own right, they were entitled on voting in vestry to add the amount of the

VOTING AT VESTRIES—*continued.*

rateable value of both capacities, and to give one vote for every 25*l.* of *Decisions on* annual rent, but so that they claimed no more than six votes in all. But *sect. 3.* they were not entitled to vote separately for each class of property so as to exceed the number of votes which would be allowed by the above mode of computation. Where at a vestry meeting a person is entitled to vote in two characters, as an occupier in his own right, and also as an owner in his vicarious right, he cannot exercise his rights separately, but must combine his qualifications so as to vote according to and in respect of the aggregate charge to which he is subject: *Lamb v. Grieves*, 26 J. P. 327; 8 Jur. (N. S.) 288.

The only legitimate way in which a parish can express its desire to do an act, is by convening a vestry and duly conducting the proceedings therein to their legal termination—namely, by a show of hands, or by a poll, when a poll is duly demanded. The result of a poll of the vestry is the legal termination of the vestry meeting. The right to a poll is a common law right, and is not taken away by mere general words in a statute: *White v. Steele*, 8 Jur. (N. S.) 1177; 12 C. B. (N. S.) 383.

Though a district forming part of a parish, appropriated to a new church under 58 Geo. 3, c. 45; 59 Geo. 3, c. 134, s. 16; 6 & 7 Vict. c. 37, and 19 & 20 Vict. c. 104, becomes a separate parish for all ecclesiastical purposes, yet, as it remains part of the original parish as to the levying of poor and other parochial rates, the inhabitants of the district have a right to vote in vestry in the election of churchwardens for the original parish: *Reg. v. Stevens*, 32 L. J. Q. B. 90; 27 J. P. 437; 3 B. & S. 333.

The following observations were made by Lord Campbell, C. J., in *Reg. v. Hammersmith*, as to the right of any voter to insist on a scrutiny in respect of every proposition submitted to the determination of a parish vestry. He said,—the only authorities cited were *Faulkner v. Elger*, 2 B. & C. 449, and *Edenborough v. Archbishop of Canterbury*, 2 Russ. 93, in which it was said that taking the votes by ballot was bad, because that mode of voting prevented a scrutiny. A scrutiny is a further inquiry for the purpose of ascertaining whether the persons admitted to vote had a right to vote or not, and in some cases the votes must be so taken that the court or other authority which has to decide on the validity of the proceedings may be able to institute that further inquiry. In *Reg. v. Avery*, 18 Q. B. 576, an inquiry into the validity of voting papers at an election of borough councillors under statute 5 & 6 Will. 4, c. 76, took place at *nisi prius*, and afterwards on certain questions of law, in this court; and if the votes had been taken by ballot, that scrutiny could not have been had; and in meetings of parish vestries there may be circumstances in which justice would require that a scrutiny should take place, and when that is made out, the voter may have a right to demand a scrutiny. But there is no authority which recognizes the right to a scrutiny in every case in proceedings at a vestry: *Reg. v. Hammersmith*, 3 B. & S. 506.

A vestry meeting was summoned to make a church rate, and all propositions and amendments were by the notice deemed to be made at that meeting, in order that the poll, (which was to be taken at an adjourned meeting,) might be taken on all the propositions at the same time. At the meeting a church rate of 2*d.* in the pound was proposed, and the only amendment made was, “that no rate be granted.” At the adjourned meeting for taking the poll, those in favour of the rate were to vote at one place, and those in favour of the amendment at another place; and there being a majority in favour of the rate, the chairman declared the rate carried, and refused to entertain any further amendment about to be proposed: upon a rule *nisi* to the justices to show cause why a distress warrant should not issue for levying the rate, it was held that the poll was properly taken, under the circumstances: *Reg. v. Surrey JJ.*, 32 L. J. M. C. 153; 7 L. T. (N. S.) 822; 27 J. P. 709.

Inhabitants coming into a parish since the last rate may vote.

IV. Provided, that when any person shall have become an inhabitant of any parish, or become liable to be rated therein, since the making of the last rate for the relief of the poor thereof, he shall be entitled to vote for and in respect of the lands, tenements, and property for which he shall have become liable to be rated, and shall consent to be rated in like manner as if he should have been actually rated for the same (a).

Inhabitants refusing payment of poor rate excluded from vestries.

V. Provided also, that no person who shall have refused or neglected to pay any rate for the relief of the poor, which shall be due from and shall have been demanded of him, [and (b)] shall be entitled to vote or to be present in any vestry of the parish for which such rate shall have been made, until he shall have paid the same (c).

Parish books and papers preserved.

VI. As well the books hereby directed to be provided and kept for the entry of the proceedings of vestries, as all former vestry books, and all rates and assessments, accounts and vouchers of the churchwardens, overseers of the poor, and sur-

(a) See 17 Geo. 2, c. 38, s. 12;
and 32 & 33 Vict. c. 41, s. 16.

(b) See 59 Geo. 3, c. 85, s. 3.

(c) See 16 & 17 Vict. c. 65, s. 1.

VOTING AT VESTRIES—continued.

Decisions on sect. 3.

With reference to who are "inhabitants," Erle, C. J., upon the construction of a local Act, observed: "I am of opinion that the word 'inhabitants' in the local Act has not the limited meaning of persons 'residing and sleeping' within the parish. Since the time of Henry the Eighth the word 'inhabitant,' when used in statutes relating to rates, has always been construed to mean 'rateable occupier;' and I do not know of an instance in which it has been decided that it must be a person who has resided and slept within the parish. In respect of gaining a settlement it is otherwise, and then the person is required for that purpose to have slept in the parish. For these reasons, had it been necessary, I should have said that sleeping in the parish was not required as a qualification for the vestrymen if the parties were rateable occupiers; but it is not essential that we should give any opinion on that point": *Wilson v. Sunderland-near-the-Sea*, 34 L. J. M. C. 93.

It is not a legal ground for refusing a vote tendered at a poll of the vestry that the voter's rates had been paid not by himself, but by other persons, in order to enable him to vote; but in order to vitiate the vote on that ground, the rejected voter ought to have tendered his vote: *Richards v. Birley*, 10 L. T. (N. S.) 142.

Where at a vestry meeting a poll is demanded, if the time and place for taking it are convenient, it is no ground for a *mandamus* to hold another meeting for the same purpose that, in consequence of the crowded state of the place where the poll was taken, a number of voters were unable to give their votes. Voters should use due diligence in voting, and if they hold back till a late period, and then in consequence of the crowd of voters some of them are unable to vote before the poll closes, the court will not assist them; and *semble*, when it is publicly announced by the chairman that the poll will continue for a certain time, he has no power to prolong it beyond that time: *Reg. v. Sutton*, 29 J. P. 56; 11 L. T. (N. S.) 487.

If a poll of a vestry be demanded on the election of a waywarden, and none be taken, there is no election: *Reg. v. Cooper*, W. N. 1870, p. 176; 39 L. J. Q. B. 273.

veyors of the highways (*d*), and other parish officers, and all certificates, orders of courts and of justices, and other parish books, documents, writings, and public papers of every parish, except the registry of marriages, baptisms, and burials, shall be kept by such person and persons, and deposited in such place and manner, as the inhabitants in vestry assembled shall direct (*e*); and if any person in whose hands or custody any such book, rate, assessment, account, voucher, certificate, order, document, writing, or paper shall be, shall wilfully or negligently destroy, obliterate, or injure the same, or suffer the same to be destroyed, obliterated, or injured, or shall, after reasonable notice and demand, refuse or neglect to deliver the same to such person or persons, or to deposit the same in such place as shall by the order of any such vestry be directed, every person so offending, and being lawfully convicted thereof on his own confession, or on the oath of one or more credible witness or witnesses, by and before two of His Majesty's justices of the peace, upon complaint thereof to them made, shall for every such offence forfeit and pay such sum not exceeding fifty pounds, nor less than forty shillings, as shall by such justices be adjudged and determined; and the same shall be recovered and levied, by warrant of such justices, in such manner and by such ways and means as poor rates in arrear are by law to be recovered and levied, and shall be paid to the overseers of the poor of the parish against which the offence shall be committed, or to some of them, and be applied for and towards the relief of the poor thereof: Provided nevertheless, that every person who shall unlawfully retain in his custody, or shall refuse to deliver to any person or persons authorized to receive the same, or who shall obliterate, destroy, or injure, or suffer to be obliterated, destroyed, or injured, any book, rate, assessment, account, voucher, certificate, order, document, writing, or paper, belonging to any parish, or to the churchwardens, overseers of the poor, or surveyors of the highways thereof, may in every such case be proceeded against in any of His Majesty's courts, civilly or

Retaining or
injuring parish
books, &c.

Penalty.

And subject to
other pro-
ceedings.

(*d*) See 25 & 26 Vict. c. 61, and 27 & 28 Vict. c. 101. (*e*) See 2 & 3 Vict. c. 84, s. 3; and 24 & 25 Vict. c. 125, s. 2.

CUSTODY OF PARISH BOOKS.

The workhouse of a union is not an improper repository for documents of a parish within the union, so as to make them inadmissible in evidence when produced thence: *Slater v. Hodgson*, 9 Q. B. 727; 2 N. S. C. 488. *Decisions on sect. 6.*

The parish chest is the proper place of custody of the rate-books of a parish: *Reg. v. Eaton*, 10 Jur. 222.

Where it appeared that the poor-rate collector could not collect the rates without having the rate-books in his possession, and that it had been usual for the overseers to deliver the rate-books to him for that purpose, and that there was no legal impediment to their delivery to him, it was held that he was entitled to have the temporary possession of them for such purpose against the overseers: *Reg. v. Christchurch*, 26 L. J. M. C. 68.

criminally, in like manner as if this Act had not been made (a).

Provisions in relation to parishes extended to townships, &c.

Manner of giving notices of vestries and meetings in special cases.

Time for holding vestries specially directed not altered.

Proviso for special vestries ;

and for London

and Southwark.

Act to extend only to England and Wales.
Public Act.

VII. Provided always, that all provisions, authorities, and directions in this Act contained in relation to parishes, shall extend and be construed to extend to all townships, vills, and places having separate overseers of the poor, and maintaining their poor separately (b); and that all the directions and regulations herein contained in regard to vestries, shall extend and be applied to all meetings which may by law be holden of the inhabitants of any parish, township, vill, or place, for any of the purposes in this Act expressed; and that the notices by this Act required to be given of every vestry may, in places in which there is or shall be no parish church or chapel, or where there shall not be divine service in such church or chapel, be given and published in such manner as notices of the like nature shall have been there usually given and published, or as shall be most effectual for communicating the same to the inhabitants of every such parsh, township, vill, or place respectively (c).

VIII. Provided also that nothing in this Act contained shall extend or be construed to extend to alter the time of holding any vestry, parish, or town meeting, which is by the authority of any Act required to be holden on any certain day, or within any certain time in such Act prescribed and directed; nor shall anything in this Act contained extend to take away, lessen, prejudice, or affect the powers of any vestry or meeting holden in any parish, township, or place, by virtue of any special Act or Acts, of any ancient and special usage or custom, or to change or affect the right or manner of voting in any vestry or meeting so holden.

IX. Provided always, that nothing in this Act contained shall extend to any parish within the city of London.

X. Provided always, that nothing in this Act contained shall extend to any parish in the borough of Southwark (d).

XI. This Act shall extend only to that part of the United Kingdom called England and Wales (e); and the same shall be a public Act, and be judicially taken notice of as such by all judges, justices, and others, without specially pleading the same.

(a) See 17 Geo. 2, c. 38, s. 13;
2 & 3 Vict. c. 84, s. 2; 6 & 7 Will.
4, c. 96, s. 5; 7 & 8 Vict. c. 101, s.
32; 13 & 14 Vict. c. 57, s. 7.

(b) See 29 & 30 Vict. c. 113, s. 18.

(c) See 1 Vict. c. 45.

(d) See 18 & 19 Vict. c. 120.

(e) See 20 Geo. 2, c. 42, s. 3.

58 GEO. III. CHAP. 70.

AN ACT for repealing such Parts of several Acts as allow pecuniary and other Rewards on the Conviction of Persons for Highway Robbery, and other Crimes and Offences ; and for facilitating the Means of prosecuting Persons accused of Felony and other Offences (*f*).

[3rd June, 1818.]

* * * * *

VII. “ Whereas by an Act of parliament made and passed in the twenty-fifth year of the reign of his late Majesty King George the Second, intituled, ‘ An Act for preventing Thefts and Robberies, and for regulating Places of Public Entertainment, and punishing Persons keeping disorderly Houses,’ it is amongst other things enacted, that if any two inhabitants of any parish or place, paying scot and bearing lot therein, do give notice in writing to any constable, or other peace officer of the like nature where there is no constable of such parish or place, of any person keeping a bawdy house, gaming house, or any other disorderly house in such parish or place, the constable or such officer as aforesaid so receiving such notice shall forthwith go with such inhabitants to one of His Majesty’s justices of the peace of the county, city, riding, division, or liberty in which such parish or place does lie, and shall, upon such inhabitants making oath before such justice that they do believe the contents of such notice to be true, and entering into a recognizance in the penal sum of twenty pounds each to give or produce material evidence against such person for such offence, enter into a recognizance in the penal sum of thirty pounds to prosecute with effect such person for such offence at the next general or quarter sessions of the peace, or at the next assizes to be holden for the county in which such parish or places does lie, as to the said justice shall seem meet: And whereas it is expedient, that when any two inhabitants of any parish or place, paying scot and bearing lot therein, shall give notice in writing to any constable of such parish or place of any person keeping a bawdy house, gaming house, or any other disorderly house, in such parish or place, that the overseers of the poor of such parish or place shall have notice thereof ;” Therefore be it enacted, and it is hereby enacted, that a copy of the notice which shall be given to such constable shall also be served on or left at the places of abode of the overseers of the poor of such parish or place, or one of them, and such overseers or overseer of the poor shall be summoned or have reasonable notice to attend before such justice of the peace before whom such constable shall have notice to attend ; and if such overseers or overseer of the poor shall then and there enter into such recognizance to prosecute such offender as the

25 Geo. II.
c. 36, s. 5.

Copy of notice
to be given
also to over-
seers of poor ;
who are to
prosecute.

constable is in and by the said Act required to enter into, then it shall not be necessary for, nor shall such constable be required to enter into such recognizance; but if such overseers or overseer of the poor shall neglect to attend such justice on having such notice, or shall attend, and shall decline or refuse to enter into such recognizance to prosecute, then such constable shall enter into the same, and shall prosecute, and shall be entitled to his expenses, to be allowed as in and by the said Act is directed.

To whom costs shall be paid.

VIII. Provided always, that no person or persons shall be entitled to any such costs or expenses for attending the court, unless he or they shall have been bound by recognizance, or have previously received a subpoena to attend the same, or a written notice for that purpose from the prosecutor, his agent, or his attorney.

In places which do not contribute to county rate, and have no public stock, a separate rate levied for purposes of Act.

IX. "And whereas there are several cities, towns corporate, and places which do not contribute to the payment of any county rate, and have no town rate or public stock; and doubts may arise whether such cities, towns corporate, and places can be legally rated and assessed towards the payments by this Act directed to be made;" Be it therefore enacted, that in all such cases the said costs, charges, expenses, sum and sums of money and compensations shall be raised, levied, collected, and paid within such cities, towns corporate, and places, by a separate rate and assessment to be made by the churchwardens and overseers of the poor of the several parishes and precincts within such cities, towns corporate, and places, and by such and the like ways, methods and means, as the rates for the relief of the poor are, can, or may be raised, levied and collected in such cities, towns corporate, and places.

Where sums are too small to be raised by a separate rate, such sums shall be paid out of poor rate.

X. "And whereas it may happen that the sums of money to be raised in the said cities, towns corporate, and places, or some or one of them, for the payments by this Act directed to be made, may be so small that it may not be convenient to make an equal separate rate and assessment for the same upon the said parishes and precincts within such cities, towns corporate, and places;" Be it enacted, that in such last-mentioned case, and when and so often as the same shall happen, the said costs, charges, expenses, sum and sums of money and compensations, shall and may, by order of the said court before whom any such person may be tried as aforesaid, be paid out of the monies from time to time raised for the relief of the poor in the said several cities, towns corporate, and places, and the treasurers or persons from time to time having the management of the said monies raised for the relief of the poor in the same cities, towns corporate, and places respectively, are hereby authorized and required to pay the said sums of money so ordered to be paid as aforesaid, out of the said last-mentioned monies, when

and as often as the same shall be so ordered ; Provided always, Proviso where that should there be more parishes than one in the same district, the payments are to be made and levied in such rates and proportions as the respective parishes pay to the poor rate. more parishes than one in same district.

59 GEO. III. CHAP. 12.

AN ACT to amend the Laws for the Relief of the Poor.

[31st March, 1819.]

“ For the better and more effectual execution of the Laws for the Relief of the Poor, and for the amendment thereof ; ” May it please your Majesty that it may be enacted, and be it enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that it shall be lawful for the inhabitants of any parish in vestry assembled, and they are hereby empowered to establish a select vestry (a) for the concerns of the poor of such parish ; and to that end to nominate and elect, in the same or in any subsequent vestry, or any adjournment thereof respectively, such and so many substantial householders or occupiers within such parish, not exceeding the number of twenty nor less than five, as shall in any such vestry be thought fit to be members of the select vestry ; and the rector, vicar, or other minister of the parish, and in his absence the curate thereof (such curate being resident in and charged to the poor’s-rates of such parish), and the churchwardens and overseers of the poor for the time being, together with the inhabitants who shall be nominated and elected as aforesaid (such inhabitants being first thereto appointed by writing under the hand and seal of one of His Majesty’s justices of the peace, which appointment he is hereby authorized and required to make), shall be and constitute a select vestry for the care and management of the concerns of the poor of such parish ; and any three of them (two of whom shall neither be churchwardens nor overseers of the poor) shall be a quorum ; and when any inhabitant elected and appointed to serve in any such select vestry shall, before the expiration of his office, die or remove from the parish, or shall become incapable of serving, or shall refuse or neglect to serve therein, the vacancy which shall be thereby occasioned shall, as soon as conveniently may be, be filled up by the election and appointment, in manner aforesaid, of some other substantial householder or occupier of such parish, and so from time to time as often as any such vacancy shall occur ; and every such select vestry shall continue and be empowered to act from the time of the appointment thereof until fourteen days after the next

Parishes empowered to establish select vestries for the concerns of the poor.

Constitution of select vestries.

Members elected being appointed by a justice to constitute a select vestry.

Vacancies, how supplied.

Continuance of select vestries.

(a) See also 1 & 2 Will. 4, c. 60.

Power of
renewal.

Meetings and
duties of select
vestries.

Overseers
(exception) to
give no other
relief than as
ordered by
select vestry.

annual appointment of overseers of the poor of the parish shall take place, and may be from year to year, and in any future year, renewed in manner hereinbefore directed; and every such select vestry shall meet once in every fourteen days, and oftener if it shall be found necessary, in the parish church, or in some other convenient place within the parish: and at every such meeting a chairman shall be appointed by the majority of the members present, who shall preside therein; and in all cases of equality of votes upon any question there arising, the chairman shall have the casting vote; and every such select vestry is hereby empowered and required to examine into the state and condition of the poor of the parish, and to inquire into and determine upon the proper objects of relief, and the nature and amount of the relief to be given; and in each case shall take into consideration the character and conduct of the poor person to be relieved, and shall be at liberty to distinguish, in the relief to be granted, between the deserving, and the idle, extravagant, or profligate poor; and such select vestry shall make orders in writing for such relief as they shall think requisite, and shall inquire into and superintend the collection and administration of all money to be raised by the poor's rates, and of all other funds and money raised or applied by the parish to the relief of the poor; and where any such select vestry shall be established, the overseers of the poor are required, in the execution of their office, to conform to the directions of the select vestry, and shall not (except in cases of sudden emergency or urgent necessity, and to the extent only of such temporary relief as each case shall require, and except by order of justices, in the cases hereinbefore provided for) give any further or other relief or allowance to the poor than such as shall be ordered by the select vestry (b).

* * * * *

Minutes kept
of proceedings

III. Every select vestry, to be established by the authority of this Act, shall cause minutes to be fairly entered in books, to

(b) See 4 & 5 Will. 4, c. 76, s. 54.

ELECTION OF SELECT VESTRY.

Decisions on
sect. 1.

A select vestry for the management of parish affairs, existing by ancient custom, could not elect another select vestry for the management of the poor within 59 Geo. 3, c. 12: *Rex v. Woodman*, 4 B. & Ald. 507.

There can be no immemorial custom with regard to management of money raised by poor rates and the government of overseers; and therefore a *mandamus* went for a meeting of the inhabitants to establish a select vestry, under 59 Geo. 3, c. 12: *Rex v. St. Bartholomew the Great*, 2 B. & Ald. 506.

Notwithstanding there was an ancient vestry in the parish, the court granted a *mandamus* to convene a meeting for the purpose of establishing a select vestry under 59 Geo. 3, c. 12, but not to interfere with the duties of the ancient vestry: *Rex v. St. Martin-in-the-Fields*, 3 B. & Ad. 907.

Under 59 Geo. 3, c. 12, s. 1, the justice has no discretion in appointing the persons nominated and elected by the inhabitants as select vestrymen; therefore where the inhabitants had nominated and elected twenty select

be for that purpose provided, of all their meetings, proceedings, resolutions, orders, and transactions, and of all sums received, applied, and expended by their direction; and such minutes shall from time to time be signed by the chairman, and shall, together with a summary or report of the accounts and transactions of the select vestry, be laid before the inhabitants of the parish in general vestry assembled, twice in every year; that is to say, in the month of March and the month of October, and at such other times as the select vestry shall think fit; and the minutes, proceedings, accounts, and reports of every select vestry shall belong to the parish, and be preserved with the other books, documents, accounts, and public papers thereof.

of select vestries.

Minutes and reports of proceedings, laid before inhabitants in general vestry.

IV. Provided, that the churchwardens and overseers of the poor shall cause ten days' notice at the least to be publicly given, in the usual manner, of every vestry to be holden for the purpose of establishing any select vestry, or of nominating and electing the members, or any member thereof, and of every vestry to be holden for the purpose of receiving the report of the select vestry; and every notice of any such vestry shall state the special purpose thereof.

Notice of holding vestries, election of members, &c.

* * * * *

VI. It shall be lawful for His Majesty's justices of the peace, in their respective special sessions for the appointment of overseers of the poor, upon the nomination and at the request of the inhabitants of any parish in vestry assembled, to appoint any person who shall be assessed to the relief of the poor thereof, and shall be a householder resident within two miles from the church or chapel of such parish, or where there shall be no church or chapel, shall be resident within one mile from the boundary of such parish, to be an overseer of the poor thereof, although the person so to be appointed shall not be a householder within the parish of which he shall be so appointed an overseer of the poor; and it shall be sufficient, in every such appointment, to describe the person appointed by his name and residence; provided that no person shall be appointed to, or be compellable to serve, the office of overseer of the poor of any parish or place in which he shall not be a householder, unless he shall have consented to such appointment (c).

Power to special sessions to appoint non-resident overseers.

Consent necessary.

(c) See 43 Eliz. c. 2, s. 1; 17 Geo. 2, c. 38, s. 15; and 18 Geo. 2, c. 15.

ELECTION OF SELECT VESTRY—continued.

vestrymen, one of whom was a justice of the peace for the district, and the other an overseer, and therefore, *ex officio*, a member of the select vestry, and the justice omitted the names of those two from the appointment, the court issued a *mandamus* to compel him to insert the two names; though it was sworn that the district was small, with only five acting justices, and that injury had already resulted from the union of the offices of select vestryman and justice: *Rex v. Adams*, 3 L. J. M. C. 7; S. C. *Rex v. Kent JJ.*, 4 N. & M. 299; 2 A. & E. 409.

Decisions on sect. 1.

Inhabitants in vestry may elect, and two justices may appoint assistant overseer with a salary.

Out of what money salary to be paid.

Continuance in office of such assistant overseer.

Security may be taken.

VII. It shall be lawful for the inhabitants of any parish in vestry assembled (*a*), to nominate and elect any discrete person or persons to be assistant overseer or overseers of the poor of such parish (*b*), and to determine and specify the duties to be by [him] or them executed and performed, and to fix such yearly salary for the execution of the said office as shall by such inhabitants in vestry be thought fit; and it shall be lawful for any two of His Majesty's justices of the peace, and they are hereby empowered, by warrant under their hands and seals, to appoint any person or persons who shall be so nominated and elected to be assistant overseer or overseers of the poor, for such purposes, and with such salary as shall have been fixed by the inhabitants in vestry (*c*), and such salary shall be paid out of the money raised for the relief of the poor, at such times and in such manner as shall have been agreed upon between the inhabitants in vestry, and the respective persons so to be appointed; and every person to be so appointed assistant overseer shall be, and he is hereby authorized and empowered to execute all such of the duties of the office of overseer of the poor as shall in the warrant for his appointment be expressed, in like manner and as fully, to all intents and purposes, as the same may be executed by any ordinary overseer of the poor; and every person or persons so appointed shall continue to be an assistant overseer of the poor until he or they shall resign such office, or until his or their appointment shall be revoked by the inhabitants of the parish in vestry assembled, and no longer (*d*); and it shall be lawful for the inhabitants of any parish, upon the nomination and election by them of an assistant overseer or overseers, to require and take security for the faithful execution of his or their office, by bond, with or without a surety or sureties, and in such penalty as they shall think fit (*e*); and every such bond shall be made to the churchwardens and overseers of the poor, and may, on any breach of the condition thereof, be put in suit by and in the names of the churchwardens and overseers of the poor for the time being, by the direction of the vestry or select vestry, for the benefit of the parish in the manner hereinafter (*f*) provided (*g*).

(*a*) See 4 & 5 Will. 4, c. 76, s. 40; and 7 & 8 Vict. c. 101, ss. 61, 62.

(*b*) See 29 & 30 Vict. c. 113, s. 10.

(*c*) See 4 & 5 Will. 4, c. 76, s. 86.

(*d*) See 4 & 5 Will. 4, c. 76, s. 48.

(*e*) See 7 & 8 Vict. c. 101, s. 61.

(*f*) See sect. 17; and 7 & 8 Vict. c. 101, s. 61.

(*g*) See 12 & 13 Vict. c. 103, s. 15.

APPOINTMENT OF ASSISTANT OVERSEER.

Decisions on sect. 7.

If more than one assistant overseer is to be appointed at the same meeting, the vote upon each appointment must be taken separately, and not collectively upon each: *Rex v. Player*, 2 B. & Ald. 707.

The appointment in writing of an assistant overseer under 59 Geo. 3, c. 12, s. 7, with an annual salary annexed to the office, required a stamp of 2*l*. [but now see 7 & 8 Vict. c. 101, s. 61]: *Rex v. Lew*, 8 B. & C. 655.

APPOINTMENT OF ASSISTANT OVERSEER—*continued.*

The 59 Geo. 3, c. 12, s. 7, gives the inhabitants the power to elect, and two *Decisions on* justices the power to appoint, to the office of assistant overseer: *Rex v. Low*, *sect. 7.*
3 M. & R. 369.

If it be objected that an assistant overseer did not sign a notice as one of the overseers, the person objecting must show that from the nature of his appointment it was his duty to sign: *Rex v. York N. R. JJ.*, 6 A. & E. 863; 6 L. J. M. C. 110; 2 N. & P. 103.

An appeal lay against the accounts of an assistant overseer, unless there was a limitation in the warrant of appointment which prevented his being accountable to the parish: *Reg. v. Wye*, 7 A. & E. 761; 7 L. J. M. C. 18.

Where one is elected assistant overseer under 59 Geo. 3, c. 12, s. 7, by warrant of justices to perform all the duties of an overseer, but the resolution of the vestry electing him did not specify any duties to be performed by him: it was held that the justices were right in construing the resolution of the vestry to mean that he was to perform all the duties of overseer, so as not to make it a nullity: *Skingley v. Surridge*, 12 L. J. M. C. 122; 11 M. & W. 503.

Confirmation by the Poor Law Commissioners is not essential to the validity of the appointment of an assistant overseer under 59 Geo. 3, c. 12, s. 7; and where there is no express limitation of the duties to be performed by such assistant overseer, he must be taken to have been appointed to perform all the ordinary duties of an overseer: *Points*, app., *Attwood*, resp., 6 C. B. 38; 18 L. J. C. P. 19.

By operation of 7 & 8 Vict. c. 101, s. 61, the appointment by the guardians, under an order issued previous to that Act by the Poor Law Commissioners, of a collector or assistant overseer, took away the power of the inhabitants in vestry to appoint an assistant overseer under 59 Geo. 3, c. 12, s. 7: *Reg. v. Greene*, 21 L. J. M. C. 137.

By the 18 Geo. 3, c. 74, s. 14 (local Act), it is enacted, that the churchwardens, overseers, and vestrymen of the parish of C., or the major part of them, may elect a collector or collectors of the rates, at any meeting to be held in the vestry-room, and may likewise from time to time remove such collector or collectors: held, that in order to satisfy the words of the statute it was necessary that the major part present at a vestry meeting should vote in favour of the removal of a collector. Therefore, that notwithstanding a greater number voted in favour of a motion for the removal of a collector than voted against it, yet inasmuch as they were a minority of the vestrymen present at the meeting, several of whom declined to vote, the collector was not removed: *Reg. v. Christchurch, Spitalfields*, 21 J. P. (N.) 134, 533; *In re Baynton*, 3 Jur. (N. S.) 1074; 26 L. J. (N. S.) M. C. 207; affirmed in error, 27 *ibid.* 23.

Where it was necessary to enable a collector of poor rates to perform the duties of his office, that he should have the rate-books in his possession: held, a *mandamus* would lie to compel the overseers of the parish, who had them in their custody, to deliver them to the collector, there being no legal impediment to their so doing: *ib.*

A claim was made to be retained upon the list of voters for a borough, on the ground that the claimant had duly served a claim to be rated on the assistant overseer, and had been rated accordingly. It was objected that the claimant was not duly qualified, on the ground that the claim made to the assistant overseer was of no effect, his appointment as assistant overseer having been revoked. Y. had in 1859 been duly elected and nominated by the inhabitants in vestry to be assistant overseer of the parish, which was coextensive with the borough, at a certain fixed salary. He was subsequently duly appointed assistant overseer by two justices, pursuant to 59 Geo. 3, c. 12, s. 7. In March, 1861, he gave notice of resignation to the board of guardians; but recalled the notice prior to Lady-day, 1861, on which day, by a resolution of the inhabitants in vestry assembled, his salary was in-

APPOINTMENT OF ASSISTANT OVERSEER—*continued*.

*Decisions on
sect. 7.*

creased by a fixed sum. The sanction of two justices to this increase was not obtained, and there was no reappointment of Y. by the justices; and he continued to act assistant overseer. It was contended that there had been a fresh election and nomination of Y. by the inhabitants in vestry on Lady-day, 1861, and a fresh appointment by justices was required. The revising barrister, however, overruled the objection and allowed the vote, and it was held that he was right in so doing: *Caunter v. Addams*, 9 L. T. (N. S.) 391; 9 Jur. (N. S.) 1295; 33 L. J. C. P. 68; 15 C. B. (N. S.) 512.

Where a resolution of vestry merely states that the person was elected assistant overseer at a specified salary, and the warrant of justices recited that the vestry appointed him to perform all the duties of an overseer of the poor, and then authorized and empowered him to perform such duties, it was held that the appointment was good, and that the resolution of vestry, by implication, meant him to be overseer in all respects and to perform all the duties of an overseer: *Reg. v. Salop JJ.*, 11 L. T. (N. S.) 416.

The court did not decide the point, but were of opinion that an assistant overseer was competent to sign a rate, and that he would be reckoned as one of a majority of the churchwardens and overseers signing the rate: *Baker*, app., *Locke*, resp., 11 Jur. (N. S.) 65; 34 L. J. C. P. 49; 18 C. B. (N. S.) 52.

If an assistant overseer be appointed under 59 Geo. 3, c. 12, s. 7, and the vestry afterwards recommend that the same person be appointed collector under 7 & 8 Vict. c. 101, s. 62, and the appointment be made accordingly, *semble*, that will be a revocation of the appointment under 59 Geo. 3, c. 12, s. 7, and a resignation of the office: *Malling v. Graham*, L. R. 5 C. P. 201; 39 L. J. C. P. 74; 22 L. T. (N. S.) 789.

INCOMPATIBILITY OF OFFICES WHEN HELD TOGETHER.

Per Lord Mansfield, C. J., in refusing *quo warranto* against a steward of a corporation for acting as a capital burgess: "It seems to me very strong that if these two offices of steward and capital burgess were incompatible, the acceptance of the latter would imply a surrender of the former": *Rex v. Trelawney*, 3 Burr. 1615.

The jurat of the corporation of Hastings may be elected town clerk; but the two offices are incompatible; and the acceptance of the latter (though an inferior office) vacates the former: *Milward v. Thatcher*, 2 T. R. 81.

Where the town clerk's accounts are allowed by the aldermen, or where a town clerk acts ministerially under the aldermen who are judicial officers, the offices are incompatible; and the appointment to the former office is equivalent to an amotion by the corporation from the latter office. If the person so appointed continue to exercise the office of alderman, *quo warranto* would be granted against him: *Rex v. Pateman*, 2 T. R. 779.

The acceptance by a person holding a corporate office, of another incompatible office not corporate, does not operate as an absolute avoidance of the corporate office, though it might be ground of amotion; and acceptance of an incompatible office does not operate as an absolute avoidance of a former office in any case where the person could not divest himself of that office by his own act, and without the concurrence of another authority to his resignation or amotion, unless such authority be privy and consenting to the second appointment: *Rex v. Patteson*, 4 B. & Ad. 9; 2 L. J. K. B. 33.

An action was brought to recover parish land, in the names of two persons appointed churchwardens, and of two persons appointed overseers, one of the latter being one of the persons appointed churchwarden: the double appointment was held fatal, and a new trial was granted: *Reynolds v. Hickman*, 34 L. T. 209.

The acceptance by the holder of one office of another incompatible office, does not vacate the former, unless it be such as he could determine by his own act simply, or unless that authority concurred in the new appointment

INCOMPATIBILITY OF OFFICES—*continued*.

which could accept the surrender of or move from the old one. Assuming the two offices to be incompatible (which they were not), the acceptance of the office of overseer did not vacate that of assistant overseer, since the holder could not divest himself of the latter office by his own act simply; the word resign in the statute meaning a formal notification to the vestry of the act of giving up the office; and since, also, there was not implied motion from the old by appointment to the new office, for the authority appointing to that office could not remove, nor was there any implied surrender, because the same authority could not accept a surrender of the old office. If the offices were incompatible, the appointment as overseer would be either void or voidable only, in which case it would be vacated on appeal. As the assistant overseer was not bound to account to the overseers, his appointment as overseer did not make such an alteration in the mode of accounting as would affect the liability of the sureties: *Worth v. Newton*, 10 Exch. 247; 24 L. T. 157; 23 L. J. Exch. 338.

EMBEZZLEMENT BY ASSISTANT OVERSEER.

An assistant overseer was held not indictable for embezzling certain parish money as the money of the overseers as he was not their servant—nor as servant of the guardians (for if he was their servant it was not their money): *Reg. v. Townsend*, 2 Car. & K. 168; but see *Reg. v. Carpenter*, *infra*.

An assistant overseer appointed under 59 Geo. 3, c. 12, s. 7, is not a "clerk or servant" to the overseers, so as to be guilty of embezzlement: *Reg. v. Sampson*, 1 Cox C. C. 355; but see *Reg. v. Carpenter*, *infra*.

An assistant overseer was bound, on receiving payment of rates, to pay them into a bank, and then get a receipt from the overseers. He fraudulently obtained some receipts, on pretence of having paid the sums into the bank, and with a view to deceive the auditor. He afterwards entered these sums to his debit in the book he kept: held, he was rightly convicted of embezzlement, and that his debiting himself in his book of account did not in any way purge the offence: *Reg. v. Guelder*, 3 L. T. (N. S.) 337; 24 J. P. 742.

An assistant overseer elected under 59 Geo. 3, c. 12, s. 7, is to be deemed the servant of the inhabitants of the parish, and to receive money collected by him for the poor rate levied upon the parish, as such servant, and may be so described in an indictment for embezzling such money so received: *Reg. v. Carpenter*, 35 L. J. M. C. 169; 12 Jur. (N. S.) 380; 14 L. T. (N. S.) 572; L. R. 1 C. C. R. 29.

LIABILITY OF ASSISTANT OVERSEER TO ACCOUNT.

Where a collector of rates who had given a bond to the previous overseers by name, the condition being that he should duly account to the then overseers and their successors in office, refused to account to the succeeding overseers (having already accounted to the previous overseers) on the ground that he was not their agent or liable to account to them, a decree was made by the M. R. for an account and delivery up of the books; but no account settled between the defendant and the late overseers to be reopened. A retired collector cannot retain the rate books; though for purposes of account he is entitled to free access to them: *Sellar v. Griffin*, 9 Jur. (N. S.) 612; 8 L. T. (N. S.) 230; 27 J. P. 340; 33 L. J. Ch. 6; 32 Bear. 542.

LIABILITY OF SURETIES.

The condition of a collector's bond was that he should during the time that he should continue in the said office of collector, whether by virtue of his aforesaid appointment or of any reappointment thereto, duly discharge the duties of his office and use his best endeavours to collect the rates which might during that year or any subsequent year be made. The collector was to be elected for a year, and was capable of being re-elected. Held,

LIABILITY OF SURETIES—*continued*

*Decisions on
sect. 7.*

that the bond continue during all the time that the collector was continuously reappointed to the office: *Angero v. Keen*, 1 M. & W. 390; 5 L. J. Exch. 233.

To an action for debt on bond given by a collector of rates, it was pleaded that the said collector "did not at any time during the continuance of the said appointment legally receive any money by virtue or for the purposes of the said Act, or relative to the collectorship of the said rates;" and it was held that such plea was an answer to the action: *Webb v. James*, 7 M. & W. 279; 10 L. J. Exch. 89; 9 Dowl. 314.

The bond of an assistant overseer need not necessarily show that it was taken under the authority of any statute, or that the plaintiffs suing upon it had any power or authority to take the bond or could act upon it in their corporate name and capacity: *Llanfyllin v. Evans*, 22 J. P. 737.

The sureties to an assistant overseer's bond are not liable if the appointment be renewed annually and the bond be not also renewed: *Bamford v. Iles*, 18 L. J. M. C. 49; 3 Exch. 380; 13 J. P. 652.

If there be an alteration of the contract, the sureties will be discharged: *Bonar v. M'Donald*, 3 H. L. Ca. 226; 14 Jur. 1077.

Churchwardens and overseers for the time being may sue upon bonds, under 59 Geo. 3, c. 12, s. 7, notwithstanding the 7 & 8 Vict. c. 101, s. 61: *Skelton v. Rushby*, 19 L. J. M. C. 29; 4 Exch. 545.

Where the recital of the condition of the board is that the officer shall be paid by a fixed salary, and after the bond is executed the mode of remuneration is changed to a commission by way of salary, it has been held in the case of a servant of a railway company, that inasmuch as the surety only undertook to be responsible for the faithful conduct of the servant whilst he continued to receive a fixed salary, the surety was not liable after the change in the mode of remuneration: *North Western Railway Company v. Whinray*, 10 Exch. 77; 23 L. J. Exch. 261.

A person was nominated by the vestry assistant overseer on 27th March, but the resolution did not specify any salary. On the 9th May following two sureties executed the usual bond. On 19th March in the following year the vestry resolved that the assistant overseer's salary be raised from 27*l.* to 35*l.* a year, including all extras. On 25th June a warrant of justices was made which recited that the assistant overseer was appointed on the 19th March. Held, that the appointment was not valid, no appointment having been made pursuant to the resolution of the 27th March, and therefore the sureties were not liable for the breach of the condition of the bond. *Martin, B. dissentient: Holland v. Lea*, 23 L. J. M. C. 123; 9 Exch. 430; 18 J. P. 201.

If the nature of the office be materially altered, the sureties will be no longer liable: *Pybus v. Gibbs*, 6 E. & B. 902; 3 Jur. (N. s.) 315.

If the appointment mentioned in the condition to a bond be for one year only, the liability of the sureties will not continue to a subsequent year under a new appointment: *Cambridge, Mayor, &c., of, v. Dennis*, E. B. & E. 660.

Where a principal is appointed to two distinct employments, and his sureties guarantee by one bond his good conduct in both, they are not discharged from liability as to one of the employments by the fact of his duties having been altered and enlarged in the other: *Skillet v. Fletcher*, 12 Jur. (N. s.) 295; 14 L. T. (N. s.) 61; L. R. 1 C. P. 217; in error L. R. 2 C. P. 469; 31 J. P. 452.

Where an obligee at the time of the execution of a bond conceals a material circumstance from a surety under it, that is sufficient to absolve the surety from all liability: *Stiff v. Eastbourne Local Board*, 19 L. T. (N. s.) 408.

An appointment of an assistant overseer, under 59 Geo. 3, c. 12, s. 7, to collect the rates, and a subsequent appointment of the same person as

VIII. In any parish not having a workhouse for the poor thereof, or where the workhouse shall be found insufficient or inconvenient, it shall be lawful for the churchwardens and overseers of the poor, by the direction of the inhabitants in vestry assembled, to erect and build in such parish a suitable workhouse, or to alter and enlarge any messuage or tenement belonging to such parish for that purpose, and to purchase or take on lease any ground within the parish for the purpose of such building, or for enlarging any such other messuage or tenement belonging to such parish for that purpose; or such churchwardens and overseers may and they are hereby authorized to add to and enlarge any such insufficient workhouse, as the inhabitants of the parish in vestry shall think fit and direct (a).

Power to churchwardens, &c., to build or enlarge work-houses.

IX. "And whereas it would be advisable to enable parishes to sell and dispose of their present workhouses, or any other houses or tenements belonging to such parishes, in cases where the same are insufficient and incapable of being enlarged or used as workhouses, and to apply the produce thereof in aid of building new workhouses;" Be it therefore enacted, that it shall and may be lawful for the churchwardens and overseers of the poor of any parish, and they are hereby authorized, by the direction of the inhabitants in vestry assembled, and with the consent of two justices, to be certified under their hands, to sell and dispose of any workhouse, or any other houses or tenements

Workhouses insufficient may be sold by churchwardens, &c., with consent of two justices.

(a) See 4 & 5 Will. 4, c. 76, s. 21.

LIABILITY OF SURETIES—continued.

collector, under 7 & 8 Vict. c. 101, s. 62, are inconsistent and incompatible, *Decisions on* and the latter will vitiate a bond given under the former appointment: *sect. 7. Mallings v. Graham*, L. R. 5 C. P. 201.

ILLEGAL PAYMENTS OUT OF POOR RATES.

Before 59 Geo. 3, c. 12, s. 7, overseers could not take credit for money paid as a salary to an assistant overseer, although such assistant overseer was appointed with a salary at a vestry meeting: *Rex v. Welch*, Bott. Cald. 50.

Overseers cannot charge in their accounts money paid as salary to one of them: *Rex v. Glyde*, 2 M. & S. 323.

Overseers may not charge, (1) for making poor rates; (2), for making copies of rates for collectors; (3), for an accountant's services; (4), poundage for collecting rates, although authorized by the vestry to do so: *Rex v. Guyer and Manley*, 4 N. & M. 158; 2 A. & E. 216.

A majority of guardians authorizing an illegal application of their funds (as for instance the defence of an officer against whom an action is brought for something done in the discharge of his duty) are liable to be proceeded against by information: *Atty.-Gen. v. Compton*, 1 Yo. & Coll. 418; 2 L. P. L. Ca. 18.

LANDS IN MORTMAIN.

A conveyance of land to trustees for the purpose of building a poor-house is not within the Mortmain Act, 9 Geo. 2, c. 36: *Barnaby v. Bardsley*, 23 *Decision on* J. P. 503; 4 H. & N. 690; 28 L. J. Exch. 326.

Produce of
sale, how
applied.

belonging to such parish, which shall be found to be insufficient or unfit for the purpose, with the site thereof, and the out-houses, offices, yards, and gardens thereto belonging, for the best price and prices that can be reasonably obtained, and to convey and assure the same to the purchaser or purchasers thereof, his, her, or their heirs and assigns, or as he, she, or they shall direct, and to apply the produce of such sale, after deducting the reasonable expenses thereof, towards the purchase or building of a new workhouse, or in or towards the payment of any money to be borrowed under the authority of this Act, as the inhabitants in vestry shall direct (a).

Where no
poor-house,
&c. can be
procured in
the parish, ad-
joining parish
may be
resorted to.

X. "And whereas there may be parishes in which no sufficient poor-house or workhouse can be procured for the accommodation of the poor thereof;" Be it further enacted, that it shall and may be lawful for the churchwardens and overseers of the poor of every such parish, by the direction of the inhabitants thereof in vestry assembled, to purchase or hire any suitable and convenient house or houses, building or buildings, for that purpose, in any adjoining parish, with the consent of two or more justices, such consent to be written upon or annexed to the agreement for purchasing or hiring such house or houses, building or buildings: Provided always, that no such house or building shall be situate more than three miles from the parish for which the same shall be purchased or hired (b).

Such building
as to settle-
ment taken to
be in the
parish so pur-
chasing or
hiring.

XI. Every house and building which shall be so purchased or hired shall, in all questions relative to the settlement of persons born or lodged therein, be deemed and taken to be part of the parish on behalf of which the same shall be purchased or hired, and by which the same shall be used as a poor-house or workhouse (c).

43 Eliz. c. 2,
s. 1.

Parishes may
provide land
for the em-
ployment of
the poor,

XII. "And whereas by an Act passed in the forty-third year of the reign of Queen Elizabeth, the churchwardens and overseers of the poor are directed to set to work certain persons therein described: And whereas by the laws now in force sufficient powers are not given to the churchwardens and overseers to enable them to keep such persons fully and constantly employed;" Be it further enacted, that it shall be lawful for the churchwardens and overseers of the poor of any parish, with the consent of the inhabitants thereof in vestry assembled, to take into their hands any land or ground which shall belong to such parish, or to the churchwardens and overseers of the poor of such parish, or to the poor thereof, or to purchase, or to hire and take on lease, for and on account of the parish, any suitable portion or portions of land within or near to such parish,

not exceeding
twenty acres;

(a) See 5 & 6 Will. 4, c. 69; 1 Vict. c. 50; and 5 & 6 Vict. 18. (c) See 54 Geo. 3, c. 170, s. 3; 4 & 5 Will. 4, c. 76, s. 44; and 7 & 8 Vict. c. 101, s. 56.
(b) See 4 & 5 Will. 4, c. 76, s. 23; and 14 & 15 Vict. c. 105, s. 6.

not exceeding twenty acres in the whole, and to employ and set to work in the cultivation of such land, on account of the parish, any such persons as by law they are directed to set to work; and to pay to such of the poor persons so employed as shall not be supported by the parish reasonable wages for their work; and the poor persons so employed shall have such and the like remedies for the recovery of their wages, and shall be subject to such and the like punishment for misbehaviour in their employment, as other labourers in husbandry are by law entitled and subject to (*d*).

XIII. Provided, that for the promotion of industry amongst the poor, it shall be lawful for the churchwardens and overseers of the poor of any parish, with the consent of the inhabitants in vestry assembled, to let any portion and portions of such parish land as aforesaid, or of the land to be so purchased or taken on account of the parish, to any poor and industrious inhabitant of the parish, to be by him or her occupied and cultivated on his or her own account, and for his or her own benefit, at such reasonable rent, and for such term as shall by the inhabitants in vestry be fixed and determined (*e*).

and may let portions of land to poor inhabitants.

* * * * *

XVII. All buildings, lands, and hereditaments, which shall be purchased, hired, or taken on lease, by the churchwardens and overseers of the poor of any parish, by the authority and for any of the purposes of this Act, shall be conveyed, demised, and assured to the churchwardens and overseers of the poor of every such parish respectively, and their successors, in trust for the parish (*f*); and such churchwardens and overseers of the poor and their successors, shall and may and they are hereby empowered to accept, take, and hold, in the nature of a body corporate, for and on behalf of the parish, all such buildings, lands, and hereditaments, and also other buildings, lands, and hereditaments belonging to such parish; and in all actions, suits, indictments, and other proceedings for or in relation to any such buildings, land, or hereditaments, or the rent thereof, or for or in relation to any other buildings, lands, or hereditaments belonging to such parish, or the rent thereof, and in all actions and proceedings upon or in relation to any bond to be given for the faithful execution of the office of an

Churchwardens and overseers may take and sue as bodies corporate.

(*d*) See 1 & 2 Will. 4, c. 42, s. 1; 1 & 2 Will. 4, c. 59; and 5 & 6 Will. 4, c. 69, s. 4.

(*e*) See 2 & 3 Will. 4, c. 42.

(*f*) See 5 & 6 Will. 4, c. 69.

LEASING POWERS.

As to what is not a valid lease under the powers given to parish officers *Decision on* by 59 Geo. 3, c. 12, ss. 13, 17, see *Doe d. Lansdell v. Gower*, 17 Q. B. 589; *sect. 13.* 15 J. P. 816.

Action, &c.
not to abate by
death, &c. of
churchwarden
or overseer.

assistant overseer, it shall be sufficient to name the churchwardens and overseers of the poor for the time being, describing them as the churchwardens and overseers of the poor of the parish for which they shall act, and naming such parish: and no action or suit, indictment, or other proceeding shall cease, abate, or be discontinued, quashed, defeated, or impeded, by the death of the churchwardens and overseers named in such proceeding, or the deaths or death of any of them, or by their removal or the removal of any of them from, or the expiration of, their respective offices.

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INCORPORATION OF PARISH OFFICERS.

*Decisions on
sect. 17.*

In order to constitute the body corporate as intended by the Act, there must be two overseers and a churchwarden or churchwardens; and where there were two overseers appointed, one of whom was afterwards appointed (by custom) to be churchwarden, it was held that the Act did not vest parish property in them: *Woodcock v. Gibson*, 4 B. & C. 462; 6 D. & R. 524.

The statute vests in the churchwardens and overseers not only property, the profits of which are applicable to the relief of the poor, but also where they are applicable to those purposes for which church rates were levied, and that although such property had originally been vested in trustees for the benefit of the parish: *Doe d. Jackson v. Hiley*, 10 B. & C. 885.

Where feoffees to charitable uses were empowered to sell and convey their lands to commissioners under an improvement Act, it was held that the petition for the investment of the purchase money should be presented in the names of the churchwardens and overseers of the parish in which the charity was established, as the charity estates were taken out of the feoffees by 59 Geo. 3, c. 12, s. 17; *semble*, churchwardens and overseers having no corporate seal, have no power to execute a power of attorney authorizing a person to continue to receive the dividends of stock, notwithstanding fluctuations in the number and identity of the members of the corporation: *Ex parte Annesley*, 2 Yo. & Coll. Exch. 350.

By 59 Geo. 3, c. 12, s. 17, parish property is vested in the churchwardens and overseers for the time being. Therefore property which belonged to the parish was leased for a term of years, but it was held that the leases passed no legal interest, and that the property since 59 Geo. 3, c. 12, s. 17, was in the churchwardens and overseers in succession, who were entitled to treat the defendant as tenant from year to year, and to recover the premises upon giving notice to quit: *Doe d. Higgs v. Terry*, 4 A. & E. 274; 5 L. J. M. C. 27; 5 N. & M. 556; 1 Har. & W. 547; S. P. *Doe d. Hobbs v. Cockell*, 4 A. & E. 478; 6 N. & M. 179; 5 L. J. M. C. 81.

The churchwardens and overseers are not by 59 Geo. 3, c. 12, s. 17, made a complete body corporate; but are only empowered "to accept, take, and hold in the nature of a body corporate;" and therefore the acceptance of a demise to them by an instrument under seal is not necessary. They need not be mentioned by name in the demise; if it be by name of office to the then individual officers it will suffice: *Smith v. Adkins*, 8 M. & W. 362.

Where property in possession of parish overseers is sought to be recovered in ejectment, service of declaration on one is not sufficient to obtain judgment against all: *Doe d. Weeks v. Roe*, 5 Dowl. 405.

INCORPORATION OF PARISH OFFICERS—*continued.*

Freehold and copyhold estates had been vested at different times in trustees, in trust for the repair of the church and the relief of the poor in a particular parish, and for other charitable purposes; it was held that such estates were not vested in the churchwardens and overseers under 59 Geo. 3, c. 12, s. 17: *Attorney-General v. Lewin*, 8 Sim. 306; 6 L. J. Ch. 204. *Decisions on sect. 17.*

The 59 Geo. 3, c. 12, s. 17, applies to freehold land held generally in trust for a parish; but freehold lands held upon special trusts for a parish and copyhold lands are not within that statute, and are not, therefore, vested in the churchwardens and overseers: *In re Paddington Charities*, 8 Sim. 629; 7 L. J. Ch. 44.

In ejectment by or against parish officers claiming to hold premises for the parish under 59 Geo. 3, c. 12, s. 17, rated inhabitants of the parish are competent witnesses for the officers under 54 Geo. 3, c. 170, s. 9: *Doe d. Boulbee v. Adderley*; *Doe d. Batchelor v. Bowles*, 8 A. & E. 502; 7 L. J. M. C. 115.

Land settled conformably with an ancient bequest in trustees, in trust to pay a moiety of the rents towards the better relief of the most poor and needy people, inhabitants of the parish of K., the other moiety to put forth poor boys of the same parish apprentices. The trustees were in existence at the passing of 59 Geo. 3, c. 12; it was held that these lands did not vest in the churchwardens and overseers under that statute as lands belonging to the parish: *Allason v. Stark*, 8 L. J. M. C. 13; 9 A. & E. 255.

On ejectment to recover land demised for workhouse purposes, with a proviso for re-entry on breach of covenant when it had ceased to be used for such, and the land was let at a rack rent which was applied in aid of the poor rates, it was held that no breach of covenant appeared; and *semble*, that a breach caused by the compulsory operation of the 4 & 5 Will. 4, c. 76, would have been thereby excused: *Doe d. Marquis of Anglesea v. Rugeley*, 6 Q. B. 107; 8 J. P. 694.

Where land has been held jointly by the churchwardens and overseers of a parish, and by the corporation of a borough in which it lies, the latter holding as trustees, not on any special trust, but for general parochial purposes, the former may bring ejectment for such land as vested in them by 59 Geo. 3, c. 12, s. 17: *Doe d. Edney v. Benham*, 7 Q. B. 976; 8 J. P. 741; 10 J. P. 38.

In ejectment under 59 Geo. 3, c. 12, s. 17, for a parish house on the demise of A. & B., stated in the declaration to be the churchwardens and overseers of the parish, the fact that they acted as churchwardens and overseers at the time of the alleged demise, is sufficient *prima facie* proof, for the purpose of the action, that they held the offices at that time: *Doe d. Bowley v. Barnes*, 8 Q. B. 1037; 10 J. P. 309.

Churchwardens and overseers suing in respect of lands, &c., held by them in the nature of a body corporate under 59 Geo. 3, c. 12, s. 17, must describe themselves as churchwardens and overseers of the poor: *Ward v. Clarke*, 13 L. J. Exch. 229.

The words of s. 17 of 59 Geo. 3, c. 12, are imperative, and not merely enabling in cases to which the section is applicable; and in cases where there are known living trustees, s. 17 does not contain words sufficiently strong to divert the legal estate from such trustees; property so circumstanced cannot be considered as "belonging to the parish," within the meaning of the statute (overruling *Rumball v. Munt*, 15 L. J. Q. B. 180): *St. Nicholas, Deptford v. Sketchley*, 17 L. J. M. C. 17.

Where land was devised unto the poor of a parish to be distributed by the churchwardens of the same parish, and other land was conveyed to trustees upon trust to permit the churchwardens to receive the rents and dispose thereof for the relief of the poor of the parish, it was held that the

XIX. "And whereas in many parishes, and more especially in large and populous towns, the payment of the poor rates is greatly evaded, by reason that great numbers of houses within such parishes are let out in lodgings, or in separate apartments, or for short terms, or are let to tenants who quit their residences or become insolvent before the rates charged on them can be collected; and it hath been found that in many instances the persons letting such houses do actually charge and receive much higher rents for the same, upon the ground and expectation that the occupiers thereof cannot be effectually assessed to the poor rates, and will not be charged with or required to pay such rates, and do thus obtain an undue advantage to themselves, and by means of the premises the other inhabitants of such parishes are unjustly compelled to pay much more than their fair and due proportions of the charges of relieving and maintaining the poor;" For remedy thereof, be it further enacted, that from and after the first day of January, one thousand eight hundred and twenty, it shall be lawful for the inhabitants of any parish, in vestry assembled, and they are hereby empowered, to resolve and direct that the owner or owners of all houses, apartments, or dwellings in such parishes, being the immediate lessor or lessors of the actual occupier or occupiers, which shall respectively be let to the occupiers thereof at any rent or rate not exceeding twenty pounds nor less than six pounds by the year, for any less term than one year, or on any agreement by which the rent shall be reserved or made payable at any shorter period than three months, shall be assessed to the rates for the relief of the poor, for or in respect of such houses, apartments, or dwellings, and the outhouses and curtilages thereof, instead of the actual occupiers (*a*); and the inhabitants so assembled in vestry may and they are hereby authorized from time to time to rescind, renew, vary, and amend every such resolution and direction as they shall see occasion, so as no such resolution or direction shall extend to assess or charge the owner of any house, apartment, or dwelling which shall, with the outhouses

Power to rate owners of certain houses let out in lodgings, &c., instead of the occupiers.

How far inhabitants in vestry may vary, &c. resolutions of former vestry in this respect.

(*a*) See 6 & 7 Will. 4, c. 96; 14 43, s. 1; and 32 & 33 Vict. c. 41, & 15 Vict. c. 39; 21 & 22 Vict. c. s. 4.

INCORPORATION OF PARISH OFFICERS—*continued*.

Decisions on sect. 17.

land was vested in the churchwardens and overseers as a corporation by virtue of 59 Geo. 3, c. 12, s. 17, and that the Charity Commissioners had no power to appoint trustees thereof under s. 48 of the Charitable Trusts Act, 1853, without the consent of the churchwardens and overseers: *Re Hackney Charities*, 10 Jur. (N.S.) 941; 11 L. T. (N.S.) 35.

The churchwardens and overseers are not by 59 Geo. 3, c. 12, s. 17, a complete body corporate, but are only empowered to "accept, take, and hold in the nature of a body corporate;" therefore it was not necessary that they should accept a demise by an instrument under a common seal. The instrument need not mention the names of the then churchwardens and overseers, inasmuch as the grant would be good by the name of office to those individual officers: *Smith v. Adkins*, 11 L. J. Exch. 83.

and curtilages thereof, be let at a greater rent than twenty pounds or less than six pounds as aforesaid; and the churchwardens and overseers of the poor of every such parish are hereby empowered and required to carry into effect all such resolutions and directions of the inhabitants in vestry assembled, and in pursuance and execution thereof, in all rates to be by them made for the relief of the poor, to assess by a fair and equal pound rate the owner or owners, being the immediate lessor or lessors of the actual occupier or occupiers of every house, apartment, or dwelling to which such resolution and direction shall extend, for or in respect of the same, according to the actual rent at which every such house, apartment, or dwelling shall be let, after making a reasonable deduction from such rent, not exceeding in any case one-half of the same; and upon non-payment of the sum or sums so to be assessed, the same may and shall be levied upon, and the payment thereof be enforced against, such owner and owners, lessor or lessors, so to be assessed, and his and their goods and chattels, in like manner as rates for the relief of the poor may by law be levied and recovered, and the payment thereof enforced, upon and against any actual occupier on whom the same are charged.

Mode of assessment under such resolutions.

Payment levied as poor rates.

XX. Provided also, that the goods and chattels of every occupier of any such house, apartment, or dwelling, which shall be found in and about the same, shall be liable to be distrained and sold for raising so much of any such rate or assessment being in arrear, as shall become due during the occupancy of the person or persons whose goods and chattels shall be so distrained (to be ascertained in a summary way by the justices granting the warrant of distress), so that in no case any greater sum be raised by distress of the goods and chattels of any such occupier, than shall at the time of making such distress be actually due from such occupier for rent of the premises on which such distress shall be made^(b): Provided also, that every occupier who shall pay any such rate or rates, or upon whose goods or chattels the same or any part thereof shall be levied, shall and may deduct the amount of the sum which shall be so paid or levied out of the rent by him or them payable; and such payment shall be a sufficient discharge to every such occupier for so much of the rent payable by him as he shall have paid, or shall have been levied on his goods and chattels, of such rate, and for the costs of levying the same.

Goods of occupiers may be distrained for rates to the amount of the rent actually due.

Occupiers paying rates empowered to deduct the amount out of their rent.

XXI. Provided, that every person receiving or claiming the rent of any such house, apartment, or dwelling, for his or her own use, or receiving the same for the use of any corporation aggregate, or of any landlord or lessor who shall be a minor, under coverture, or insane, or for the use of any person who shall not be usually resident within twenty miles from the parish

Persons receiving rent in certain cases rated as owners.

(b) Sec 12 & 13 Vict. c. 14.

in which any such house, apartment, or dwelling shall be situated, shall for this purpose be deemed and taken to be and shall be rateable as the owner thereof.

Persons rated as owners may appeal;

and may vote in vestries.

XXII. Provided also, that every person to be rated as the owner of any such house, apartment, or dwelling, who shall think himself or herself aggrieved by any such rate, shall have such and the like remedy by appeal against the same, as any other person thereby rated; and every person so rated shall be entitled, as an inhabitant of the parish in and for which he shall be assessed, to be present and to vote in every vestry or meeting of the inhabitants thereof, for the execution of the laws for the relief of the poor, or for the consideration of any matter or question in relation thereto, in like manner as the inhabitants of the said parish (*a*).

No owner, not being an occupier, rated in places where right of voting for members of parliament depends on rating.

XXIII. Provided, that nothing in this Act contained shall extend or be construed to extend to give any power or authority to assess the owner (not being the occupier) of any house, apartment, or dwelling, in any city, borough, or town corporate, in which the right of voting for the election of members to serve in parliament shall depend upon the assessment of the voter to the poor rate, or to vary or affect the manner of assessing and charging any of the inhabitants or occupiers of houses, lands, or tenements, within any such city, borough, or town corporate (*b*).

Two justices empowered, in certain cases, to deliver the possession of parish houses, from persons intruding therein, to churchwardens and overseers.

XXIV. "And whereas difficulties having frequently arisen, and considerable expenses have sometimes been incurred, by reason of the refusal of persons who have been permitted to occupy, or who have intruded themselves into parish or town houses, or other tenements or dwellings built or provided for the habitation of the poor, or otherwise belonging to such parishes, to deliver up the possession of such houses, tenements, or dwellings, when thereto required; and it is expedient to provide a remedy for the same;" Be it further enacted, that if any person who shall have been permitted to occupy any parish or town house, or any other tenement or dwelling belonging to or provided by or at the charge of any parish, for the habitation of the poor thereof, or who shall have unlawfully intruded himself or herself into any such house, tenement, or dwelling, or into any house, tenement, or hereditament belonging to such parish, shall refuse or neglect to quit the same, and deliver up the possession thereof to the churchwardens and overseers of the poor of any such parish, within one month after notice and demand in writing for that purpose, signed by such churchwardens and overseers, or the major part of them, shall have

(*a*) See 58 Geo. 3, c. 69, s. 3; 59 Geo. 3, c. 85; and 13 & 14 Vict. c. 99, s. 6. (*b*) See 4 & 5 Will. 4, c. 76, s. 40; and 13 & 14 Vict. c. 99, s. 7.

been delivered to the person in possession, or in his or her absence affixed on some notorious part of the premises, it shall be lawful for any two of His Majesty's justices of the peace, upon complaint to them made by one or more of the churchwardens and overseers of the poor of the parish in which any such house, tenement, or dwelling shall be situated, to issue their summons to the person against whom such complaint shall be made, to appear before such justices, at a time and place to be appointed by them, and to cause such summon to be delivered to the party against whom the complaint shall be made, or in his or her absence to be affixed on the premises, seven days at the least before the time appointed for hearing such complaint; and such justices are hereby empowered and required, upon the appearance of the defendant, or upon proof on oath that such summons hath been delivered or affixed as is hereby directed, to proceed to hear and determine the matter of such complaint, and if they shall find and adjudge the same to be true, then by warrant under their hands and seals, to cause possession of the premises in question to be delivered to the churchwardens and overseers of the poor of the parish, or to some (c) of them.

(c) See 2 & 3 Will. 4, c. 42, ss. 5, 6; and 5 & 6 Will. 4, c. 69, s. 5.

RECOVERY OF PARISH PROPERTY.

Where a pauper is put into a cottage by parish officers, he may be turned out without ejectment; for one put into a house by overseers to live there is merely their servant, and his possession is theirs, and no relation of landlord and tenant is created: *Fox v. Oakley*, Peak's Add. Ca. 214; *Rex v. Gowen*, 2 East, 1027. *Decisions on sect. 24.*

Where a pauper had been put in possession of a cottage forty years previously by the then overseers, and had continued in the receipt of relief, and the cottage had been from time to time repaired by different overseers, till the pauper disposed of it to the defendant and went away, it was held, that the existing overseers could not maintain ejectment for it, having no derivative title as a corporation from their predecessors so as to connect themselves in interest with the overseers by whom the pauper was put in possession, and the pauper having done no act to recognise his holding under the demising sets of overseers: *Doe d. Grundy v. Clarke*, 14 East, 488.

Where a pauper, who had been permitted to occupy a parish house, went away from home: held, that the overseers might lawfully enter and resume possession without giving any notice to quit, and were not bound to pursue the method pointed out by 59 Geo. 3, c. 12, s. 24: *Wildbor v. Rainforth*, 8 B. & C. 4.

A parishioner liable to poor rates was held at common law a competent witness for the parish in an action to recover parish property, no evidence being given that the premises were of any annual value beyond that at which they were demised: *Doe d. Hobbs v. Cockell*, 4 A. & E. 478; 6 N. & M. 179; 5 L. J. M. C. 81.

Where a person has been in possession of a tenement claimed by a parish during a period of twenty years, for the last three of which he paid rent,

RECOVERY OF PARISH PROPERTY—*continued.*

*Decisions on
sect. 24.*

and then being expelled under a justice's warrant, he is again let into possession by the parish, he is not liable to be excluded by a warrant of two justices, pursuant to 59 Geo. 3, c. 12, s. 24: *Reg. v. Middlesex JJ.*, 7 Dowl. 767.

In a proceeding before justices under 59 Geo. 3, c. 12, s. 24, for not giving up possession of a parish house after a proper demand, where the justices had made an order in pursuance of the statute, which was brought up by *certiorari* to be quashed, the court refused to receive affidavits as to the facts proved before the justices, and others attacking the credit of witnesses; and as it appeared that the case was one in which the justices had jurisdiction, and that their proceedings were good in form, the rule was discharged: *Reg. v. Bolton*, 1 Q. B. 66; 10 L. J. M. C. 49; 4 P. & D. 679.

Personal service of a notice upon the tenant in possession is not required by 59 Geo. 3, c. 12, ss. 24, 25: *Appleton v. Morray*, 2 L. T. (N. S.) 516; 2 F. & F. 167.

The justices have jurisdiction to issue their warrant under 59 Geo. 3, c. 12, s. 24, notwithstanding a claim of title: *Reg. v. Brecknockshire JJ. and Herring*, 7 B. & S. 902.

Defendants, who were poor parishoners, claimed to hold as yearly tenants certain lands in the parish which were vested under 59 Geo. 3, c. 12, s. 17, in the churchwardens and overseers, at the yearly rent of 4s. per acre. Up to the year 1803 the lands had been occupied at that rent, which was always paid in advance; in that year they were enclosed, and to pay the expenses the rent was raised to 12s. per acre, which was paid up to 1848, when all the expenses being liquidated the defendants refused to pay more than 4s., which sum was tendered and refused and action brought. It was held that in the absence of any agreement to the contrary, the defendants were tenants from year to year, and entitled to notice to quit, and that the facts stated in the case did not amount to a disclaimer: *Hunt v. Allgood*, 4 L. T. (N. S.) 215.

An information having been filed to set aside an improvident lease of parish lands, and judgment being in favour of the prosecutor, the parish officers claimed possession from G. holding as one of the assignees of the original lease. G. wrote to his undertenant to attorn, which was done, and rent was paid for several years to the parish. Held, what G. did amounted to a surrender. The same parish officers having demanded possession from F., who held another part of the premises as assignee in trust for other persons, F. declined to take a lease from the parish or to attorn, or to direct his undertenant to attorn, and refused to do anything. Held, there was nothing done by F. that amounted to a surrender or to prevent his recovering the land in ejectment: *Gray v. Balls*; *Field v. Merrison*, 26 J. P. 5, (N.) 772.

The jurisdiction of justices in giving a summary remedy for the recovery of parish lands and tenements under 59 Geo. 3, c. 12, s. 24, cannot be exercised without their first deciding whether the tenements are parish property or not; and if there be conflicting evidence on that preliminary point, the justices have not only power to decide, but their finding will not be disturbed by a superior court on a rule for a *certiorari*: *Reg. v. Llanfillo JJ.*, 31 J. P. 7; 15 L. T. (N. S.) 277.

At the hearing of an information and complaint by parish officers under 59 Geo. 3, c. 12, s. 24, the justices are not precluded from inquiring into the matter and determining thereon by reason of a question of title arising: *Ex parte Vaughan*, 36 L. J. M. C. 17; L. R. 2 Q. B. 114.

XXV. If any person to whom any land appropriated, purchased, or taken under the authority of this Act, for the employment of the poor of any parish, or to whom any other lands belonging to such parish, or to the churchwardens and overseers thereof, or to either of them, shall have been let for his or her own occupation, shall refuse to quit and to deliver up the possession thereof to the churchwardens and overseers of the poor of such parish, at the expiration of the term for which the same shall have been demised or let to him or her; or if any person or persons shall unlawfully enter upon, or take or hold possession of any such land or any other land or hereditaments belonging to such parish, or to the churchwardens or overseers, or to either of them, it shall be lawful for such churchwardens and overseers of the poor, or any of them, after such notice and demand of possession as is by this Act directed in the case of parish houses, to exhibit a complaint against the person or persons in possession of such land before two of His Majesty's justices of the peace, who are hereby authorized and required to proceed thereon, and to hear and determine the matter thereof, and if they shall find and adjudge the same to be true, to cause possession of such land to be delivered to the churchwardens and overseers of the poor, or some of them, in such and the like course and manner as are by this Act directed with regard to parish houses (a).

Two justices empowered to deliver possession of land appropriated for the poor, from persons intruding thereon, to churchwardens and overseers.

XXVI. "And whereas by the said Act passed in the forty-third year of the reign of Queen Elizabeth, for the relief of the poor, it was enacted, that the father and grandfather, and the mother and grandmother, and the children of every poor, old, blind, lame, and impotent person, or other poor person, not able to work, being of a sufficient ability, shall at their own charges relieve and maintain every such poor person, in that manner and according to that rate as by the justices of the peace of that county where such sufficient persons dwell, or the greater number of them at their general quarter sessions, shall be assessed: And whereas it is expedient to extend the power which is by the said Act given to justices in their general quarter sessions to justices in petty sessions:" Be it further enacted, that it shall be lawful for any two or more of His Majesty's justices of the peace for the county or other jurisdiction [in which any such sufficient person shall dwell (b)], and they are hereby empowered, in any petty session, to make such assessment and order for the relief of every poor, old, blind, lame, impotent, or other poor person not able to work, upon and by the father, grandfather, mother, grandmother, or child (being of sufficient ability) of every such poor person, as may by virtue of the said Act be made by the justices in their general quarter sessions; and that every such assessment and order of two

Justices in petty sessions empowered in like manner to order relief by parents, &c.

(a) See 2 & 3 Will. 4, c. 42, ss. 5, 6; and 5 & 6 Will. 4, c. 69, s. 5. (b) See 31 & 32 Vict. c. 122, s. 36.

or more justices in any petty sessions shall have the like force and effect as if the same were made by the justices in their general quarter sessions; and the disobedience thereof shall be punishable in like manner (a).

* * * * *

Examination of prisoners to their settlements made evidence.

XXVIII. It shall be lawful for any justice of the peace to take in writing the examination on oath of any person having a wife or child, who shall be a prisoner in any gaol or house of correction, or in the custody of the keeper of any such gaol or house of correction, or who shall be in the custody of any constable or other peace officer, by virtue of any warrant of commitment, touching the place of his or her last legal settlement; and such examination shall be signed by such justice taking the same, and shall be received and admitted in evidence as to such settlement before any justices, for the purpose of any order of removal, so long only as the person so examined shall continue a prisoner.

Overseers empowered in certain cases to give relief by way of loan only.

XXIX. "And whereas it is expedient to discourage that reliance upon the poor rates which frequently induces artisans, labourers, and others, to squander away earnings which would with suitable care have afforded sufficient means for the support of their families:" Be it further enacted, that whenever it shall appear to the justices or to the general or select vestry, or to such guardians, governors, or directors as aforesaid, or to the overseers of the poor, to whom application shall be made for relief for any poor person, that he might, but for his extravagance, neglect, or wilful misconduct, have been able to maintain himself, or to support his family (as the case may be), it shall be lawful for the overseers of the poor (by the direction of the justices, or of the general or select vestry, or of such guardians, governors, or directors, where application shall have been made to them respectively), to advance money weekly or otherwise as may be requisite, to the person so applying, by way of loan only, and to take his receipt for and engagement to repay every sum to be so advanced (for which no stamp duty shall be required); and it shall be lawful for any two justices, upon the application (within one year after any such loan or loans) of one or more of the overseers of the poor, for the time being of

(a) See 43 Eliz. c. 2, s. 6.; 4 & 5 7 & 8 Vict. c. 101, s. 25; and 11 Will. 4, c. 76, ss. 56, 57, 58, 59, 78; & 12 Vict. c. 110, s. 8.

PRISONER'S EVIDENCE.

Decision on sect. 28.

The examination of a prisoner under sentence of transportation touching his settlement under 59 Geo. 3, c. 12, s. 28, was held not admissible at the trial of the appeal, without evidence that he was a prisoner at the time the evidence was tendered: *Reg. v. Widdecombe-in-the-Moor*, 16 L. J. M. C. 44.

the parish, to summon the person to whom any money shall have been so advanced; and if, upon examination by such justices into his circumstances, it shall appear to them that such person is able, by weekly instalments or otherwise, to repay the whole or any part of the money so advanced to him and for which he shall have given any such receipt and engagement, it shall be lawful for such justices to make an order under their hands and seals for the repayment of the whole or of any part of such money, at such time and times and in such proportions and manner as they shall see fit; and upon every default of payment, by their warrant to commit such person to the common gaol or house of correction, for any time not exceeding three calendar months, unless the sum and sums which shall be due and payable by virtue of such order shall be sooner paid (b).

Proceedings
for repayment
of loan.

* * * * *

XXXV. All powers and authorities by this Act given to and vested in justices of the peace, shall be exercised and executed by such justices within the limits of their respective commissions and jurisdictions, and not elsewhere (c); and that all provisions, clauses, authorities, and directions in this Act contained, in relation to parishes, shall extend and be construed to extend to all townships, vills, and places, having separate overseers of the poor, and maintaining their poor separately: and that all acts and duties required or authorized by this Act to be done and executed by churchwardens and overseers of the poor, may in every parish be performed, exercised, and executed by the major part of the churchwardens and overseers of the poor thereof; and that in townships, vills, and places which have no churchwarden, the same may be performed, exercised, and executed by the overseers of the poor thereof, or the major part of them (d), and that all the powers, provisions, and clauses in this Act contained, which relate to vestries, or to the inhabitants of any parish in vestry assembled, shall be construed to extend to all meetings of the inhabitants of any township, vill, or place, having separate overseers of the poor, and maintaining its poor separately, to be held after due and legal notice for carrying into execution the laws for the relief of the poor, as fully as if in every such provision and clause they were severally and respectively named and repeated (e).

Justices to act
within their
respective
jurisdictions.

Provisions
relating to
parishes
applied to
townships, &c.
Majority to
act.

Powers given
to vestries
applied to
meetings of
townships, &c.

- (b) See 4 & 5 Will. 4, c. 76, ss. 58, 59; and 11 & 12 Vict. c. 110, s. 8. (d) See 43 Eliz. c. 2, s. 1.
(c) See 12 & 13 Vict. c. 64; and 14 & 15 Vict. c. 105, ss. 9, 11. (e) See 58 Geo. 3, c. 69, ss. 2, 3, 4; and 59 Geo. 3, c. 85.

MAJORITY OF PARISH OFFICERS.

A notice of chargeability, signed by three overseers, subscribing themselves as such, was *prima facie* a good notice, though it did not purport to come from a majority of the parish officers; what constitutes a majority of them is matter of evidence: *Reg. v. Colerne*, 11 Q. B. 909; 17 L. J. M. C. 121; 12 J. P. 535. Decision on sect. 35.

Proviso for powers of 22 Geo. III. c. 83, where the provisions are adopted ;

and for powers given by special Acts ;

and for select vestries by ancient custom.

Act to extend to England only.

XXXVI. Provided, that nothing in this Act contained shall extend, or be construed to extend, to take away, abridge, alter, prejudice, or affect, further than is hereby expressly enacted, any of the powers, directions, provisions, or regulations contained in the said Act passed in the twenty-second year of His present Majesty's reign, for the better relief and employment of the poor, in or with respect to such parishes, townships, and places as have adopted, or as shall adopt and become subject to the provisions of that Act ; nor to take away, abridge, alter, prejudice, or affect any of the powers or provisions of any special or local Act or Acts, for the maintenance, relief, or regulation of the poor in any city, town, hundred, district, parish, or place, so nevertheless that in every city, town, hundred, district, parish, or place, such of the clauses, directions, and powers in this Act contained, as are not repugnant to, nor incompatible with, the provisions of the said Act of the twenty-second year of His Majesty's reign, or of such respective special or local Acts, shall have the like force and effect, and may be adopted and applied in like manner as in other parishes and places : Provided also, that nothing in this Act contained shall extend, or be construed to extend, to alter, affect, or disturb any select vestry which in any parish has been established and acted upon by virtue of any ancient usage or custom.

XXXVII. This Act shall extend only to that part of the United Kingdom called England (a).

59 GEO. III. CHAP. 50.

AN ACT to amend the Laws respecting the Settlement of the Poor, so far as regards renting Tenements.

[2nd July, 1819.]

Settlement shall not be acquired by renting any tenement, except a house

"Whereas many disputes and controversies have arisen respecting the settling of poor people, in parishes in England, by the renting of tenements" (b) ; Be it enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this Act, no person shall acquire a settlement in any parish or township maintaining its own poor in England, by or by reason of his or her dwelling for forty days in any tenement rented by such person, unless such tenement shall consist of a house or building within such parish or township,

(a) See 20 Geo. 2, c. 42, s. 3.

(b) See 35 Geo. 3, c. 101, s. 4.

being a separate and distinct dwelling-house or building, or of land in the parish of the actual annual value of 10*l*. held and rent paid for a year. the land within such parish or township, or of both, bonâ fide hired by such person at and for the sum of ten pounds a year at the least, for the term of one whole year; nor unless such house or building shall be held, and such land occupied, and the rent for the same actually paid, for the term of one whole year at the least by the person hiring the same; nor unless the whole of such land shall be situate within the same parish or township as the house wherein the person hiring such land shall dwell and inhabit; anything in any Act or Acts, or any construction of or implication from any Act or Acts, or any usage or custom to the contrary in anywise notwithstanding (c).

(c) This enactment was repealed by 6 Geo. 4, c. 57, but as it affects past settlements acquired under it, it necessarily retained in this work. See also 1 Will. 4, c. 18; and 4 & 5 Will. 4, c. 76, s. 66.

SETTLEMENT BY RENTING AND OCCUPYING TENEMENT.

Although a room of a house may be underlet, still the house may continue to be a separate and distinct dwelling-house, within the meaning of 59 Geo. 3, c. 50: *Rex v. North Collingham*, 1 B. & C. 578. Decisions on sect. 1.

The occupation under different hirings may be connected as to make an occupation for one whole year within 59 Geo. 3, c. 50: *Rex v. Stow*, 4 B. & C. 87.

The person claiming the settlement must, as required by 59 Geo. 3, c. 50, himself during a whole year hold a tenement or tenements, which together were of the annual value of 10*l*.: *Rex v. Tonbridge*, 6 B. & C. 88.

Where a person, after 59 Geo. 3, c. 50, hired a tenement of the annual value of 10*l*., and held it for more than a year, but died before a whole year's rent was paid, he gained no settlement, although after his death, and after 6 Geo. 4, c. 57, the rent was paid out of money produced by the sale of his goods: *Rex v. Carshalton*, 6 B. & C. 93.

A settlement was gained under 59 Geo. 3, c. 50, by hiring and holding for one year a distinct and separate dwelling-house, although part of the house was let to an undertenant: *Rex v. Great Bolton*, 8 B. & C. 71.

If the house be hired, occupied, and the rent paid for a year, all the requisites of 59 Geo. 3, c. 50, will be complied with, though the pauper may have been removed by order of justices to his settlement during the year: *Rex v. Barham*, 8 B. & C. 99.

Since 59 Geo. 3, c. 50, a settlement may be gained by a residence of forty days in a parish, provided the pauper comply with the conditions mentioned in that Act: *Rex v. Wainfleet All Saints*, 8 B. & C. 227.

After 59 Geo. 3, c. 50, and before 6 Geo. 4, c. 57, a pauper bonâ fide hired a tenement at and for the sum of 10*l*. a year, and held and occupied and paid rent for the same for the term of one whole year, but the actual annual value of the tenement was under 10*l*. He gained a settlement nevertheless: *Rex v. Ashfield-cum-Thorpe*, 9 B. & C. 939.

If money be fraudulently given by parish officers to enable a pauper to pay his rent so as to acquire a settlement in another parish, the justices ought to find fraud; but not so if the money was given to relieve the pauper: *Rex v. Tillingham*, 1 B. & Ad. 180.

Pauper took a house for a year at 10*l*. He lived there nearly the whole term, and abandoned the premises a few weeks before the year ended, and they were then occupied by another person. Pauper paid the year's rent. He gained a settlement under 59 Geo. 3, c. 50, by holding the house for a year: *Rex v. Stow Bardolph*, 1 B. & Ad. 219.

SETTLEMENT BY RENTING AND OCCUPYING TENEMENT—*continued.*

*Decisions on
sect. 1.*

The hiring of a house at 10*l.* a year, the landlord paying all levies and rates chargeable thereon, is a sufficient hiring and renting a tenement within the meaning of 59 Geo. 3, c. 50; and 6 Geo. 4, c. 57: *Rex v. Thurmaston, South End*, 1 B. & Ad. 731.

The tenement must have been occupied personally down to the time when 6 Geo. 4, c. 57, passed, so as to comply with the condition in 59 Geo. 3, c. 50: *Rex v. Ockley*, 1 B. & Ad. 819.

Where there is a joint demise, the rent is payable by the two jointly, and each could only be considered as having rented a tenement (in the particular case) at 8*l.* a year; and therefore no settlement was gained either by renting the tenement or by being rated and paying rates in respect of it: *Rex v. Great Wakering*, 5 B. & Ad. 971.

A servant in husbandry may acquire a settlement by renting a tenement, if his master allow him the keep of cattle and potatoe land of sufficient value, in lieu of so much wages: *Rex v. Bathwick*, 4 D. & R. 335.

A person hiring a house and stable for a year, in a parish under different landlords, at rents amounting together to 10*l.*, holding the same and residing in the house for the year, and paying the whole rent, acquired a settlement in such parish under 59 Geo. 3, c. 50, though the house and stable were entirely separate from each other: *Rex v. Gosforth*, 1 A. & E. 226; 4 N. & M. 303.

The renting and occupation of a granary lying over another building and under the same roof with it, but accessible only by a ladder from the outside, and having no communication with the building below, conferred no settlement under 59 Geo. 3, c. 50: *Rex v. Henley-on-Thames*, 6 A. & E. 294; 6 L. J. M. C. 76; 1 N. & P. 445.

A notice of grounds of appeal stated that the pauper's husband, in 1828, 1829, or 1830 (subsequently to the settlement proved in the examination), "did rent and occupy," for twelve months, "a house and land" in the respondent parish, as tenant to C., of the yearly rent and value of 10*l.* and upwards, "and did pay upwards of 10*l.* rent for the same, and did thereby gain a settlement in the respondent parish." Held, under 4 & 5 Will. 4, c. 76, s. 81, (1) That the payment of rent was sufficiently alleged under 6 Geo. 4, c. 57, s. 2, and 1 Will. 4, c. 18, ss. 1, 2; (2) That the notice of grounds was insufficient, not showing a residence in the respondent parish: *Rex v. York W. R. JJ.*, 1 G. & D. 706; 11 L. J. M. C. 80; 2 Q. B. 505.

Grounds of appeal setting up a settlement by renting a tenement at 10*l.* a year, will be insufficient if forty days' residence be not alleged: *Reg. v. Old Stratford*, 11 L. J. M. C. 115; 2 G. & D. 82; 2 Q. B. 513.

An examination, stating that the pauper occupied a cottage and land belonging to A. B. in the appellat parish at the yearly rent of 9*l.*, and a shop at the yearly rent of 1*l.* 11*s.* 6*d.*, all which premises he occupied for three years, paid the several rents as they became due, and resided the whole time in the cottage, does not show a renting of 10*l.* for one year, and an occupation under such yearly hiring within 6 Geo. 4, c. 57, s. 2, and will not sustain an order of removal: *Reg. v. Recorder of Pontefract*, 2 Q. B. 548; 12 L. J. M. C. 81.

An examination which shows that the pauper took a house for a year at a rent exceeding 10*l.*, and resided in it for more than a year, and paid rent for the whole term of his tenancy, does not show sufficient to support a settlement by renting a tenement: *Reg. v. Leeds*, 13 L. J. M. C. 88.

59 GEO. III. CHAP. 85.

AN ACT to amend and correct an Act of the last Session of Parliament, for the Regulation of Parish Vestries in England.

[7th July, 1819.]

“ WHEREAS an Act was passed in the last session of parliament, 58 Geo. III. intituled ‘ An Act for the Regulation of Parish Vestries,’ and it c. 69. is expedient to amend the same ;” Be it enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that Persons rated to the poor, though not parishioners, may vote in vestry according to the value of the premises rated. from and after the passing of this Act, any person who shall be assessed and rated for the relief of the poor in respect of any annual rent, profit, or value arising from any lands, tenements, or hereditaments situate in any parish, in which any vestry shall be holden under the said recited Act, although such person shall not reside in or be an inhabitant of such parish, shall and may lawfully be present at such vestry, and such person shall have and be entitled to give such and so many vote or votes at such vestry, in respect of the amount of such rent, profit, or value, as by the said Act any inhabitant of such parish present at such vestry might or ought to have and be entitled to give in respect of such amount, and to all intents and purposes as if such person were an inhabitant of such parish ; anything in the said recited Act to the contrary in anywise notwithstanding (a).

II. In all cases where any corporation, or body politic or corporate, or company shall be charged to the rate for the relief of the poor of such parish, either in the name of such corporation or of any officer of the said corporation, it shall and may be lawful for the clerk, secretary, steward, or other agent duly authorized for that purpose, of such corporation, or body politic or corporate, or company, to be present at any vestry to be holden in the said parish under the said recited Act ; and such clerk, secretary, steward, or agent shall be entitled to give such and so many vote or votes at such vestry, in respect to the amount of the rent, profit, or value of such lands, tenements, or hereditaments, as by the said Act any inhabitant assessed to such rate present at such vestry might or ought to have and be entitled to in respect of such amount ; anything in the said recited Act to the contrary in anywise notwithstanding. Clerk or agent of corporation, &c. may vote in vestry according to the value of the premises rated.

III. “ And whereas by the said Act it was intended to be 58 Geo. III. enacted, that no person should be present at or vote at any c. 69, s. 5. vestry, who should have refused to pay any assessment that had become due and had been demanded of such person, but the

(a) See 58 Geo. 3, c. 69, s. 3 ; 7 Will. 4, & 1 Vict. c. 45 ; and 32 & 33 Vict. c. 41, ss. 7, 15.

Non-payment
of rates to dis-
qualify from
being present
or voting in
vestry.

word ‘and’ (a) was by mistake so inserted in the said Act, as to make the same in that respect ambiguous;” Now, to rectify such mistake, be it further enacted, that no person who shall have refused or neglected to pay any rate for the relief of the poor, which shall be due from and shall have been demanded of him, shall be entitled to vote or to be present in any vestry of the parish for which such rate shall have been made, until he shall have paid the same; nor shall any such clerk, secretary, steward, or agent be entitled to be present or to vote, nor shall be present or vote at any vestry in such parish, unless all rates for the relief of the poor, which shall have been assessed and charged upon or in respect of the annual rent, profit, or value, in right of which, any such clerk, secretary, steward, or agent, shall claim to be present and vote, which shall be due, and which shall have been demanded at any time before the meeting of such vestry, shall have been paid and satisfied (a).

59 GEO. III. CHAP. 95.

AN ACT for confirming ancient Separations of Towns Corporate from Parishes, in regard to the Maintenance of the Poor.

[12th July, 1819.]

“WHEREAS various towns corporate, or franchises, situate within one or more parish or parishes, and not co-extensive with the said parish or parishes, have heretofore and for a long time past been separately assessed from the parish or parishes in which they are situate for the relief of the poor, and overseers of the poor for such town or franchise have been appointed distinct and apart from the overseers of the poor appointed for such parish or parishes: And whereas such separate and distinct assessments and appointments of overseers have, in many cases, been made without sufficient authority, and yet, by reason of the long continuance of the said separation, the towns corporate or franchise cannot now be re-united to the parish or parishes in which they are situate without manifest inconvenience and hardship:” Be it enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this Act, all such separation of towns corporate or franchises from the parish or parishes in which they are situate, together with the separate and distinct appointment of overseers of the poor, shall be deemed and taken to be lawful to all intents

Separation of
towns from
parishes, and
distinct
appointment
of overseers
lawful.

(a) See 58 Geo. 3, c. 69, s. 5; and 16 & 17 Vict. c. 65, s. 1.

and purposes whatsoever, in the same manner as if the said separation or division had taken place under the authority of an Act made in the forty-third year of the reign of Queen Elizabeth, intituled, "An Act for the Relief of the Poor;" Provided always, nevertheless, that nothing in this Act contained shall render legal or confirm any separation of a town corporate or franchise from the parish or parishes in which such town corporate or franchise is situate, in respect to the maintenance of the poor or the appointment of overseers of the poor, in any case where it shall appear that such separation has commenced within sixty years before the passing of this Act (*b*).

59 GEO. III. CHAP. 134.

AN ACT to amend and render more effectual an Act passed in the last Session of Parliament for building and promoting the building of additional Churches in populous Parishes.

[13th July, 1819.]

* * * * *

XXIII. * * * Provided always, that any churchwardens or chapelwardens appointed under the provisions of the said recited Act (*c*) or this Act, shall not in virtue of such office be deemed overseers of the poor (*d*).

* * * * *

Church or chapelwardens * * * not deemed overseers of the poor.

1 GEO. IV. CHAP. 36.

AN ACT for allowing Appeals from Towns Corporate and Franchises, in certain Cases, to the General or Quarter Sessions of the Peace of the Counties in which they are situate.

[8th July, 1820.]

"WHEREAS by an Act made in the seventeenth year of the reign of his late Majesty King George the Second, intituled, 'An Act for remedying some Defects in the Act made in the forty-third Year of the Reign of Queen Elizabeth, intituled, An Act for the Relief of the Poor,' it is amongst other things provided, That in all corporations or franchises which have not four justices of the peace, it shall and may be lawful for any of the person or persons, in any of the cases mentioned or referred to by the said Act, where power of appeal is given, to appeal, if he or they shall think fit, to the next general quarter sessions of the peace for the county, riding, or division, wherein such cor-

(*b*) See 43 Eliz. c. 2, s. 1; 14 Car. 2, c. 12, ss. 21, 22; and 7 & 8 Vict. c. 101, s. 22. (c) *i. e.*, 58 Geo. 3, c. 45. (d) See 43 Eliz. c. 2, s. 1.

Allowing an appeal from corporations and franchises not having six justices, nor jurisdiction over two or more whole parishes or wards.

Proviso.

poration or franchise is situate : And whereas it would conduce to the more equal and impartial administration of justice, if such power of appeal were extended :” Be it therefore enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this Act, in all corporations and franchises not having more than six justices of the peace, nor having jurisdiction or authority over two or more whole parishes or wards contained within such corporation or franchise, it shall and may be lawful for any person or persons in any of the cases mentioned or referred to, by the said Act or Acts, or either of them, where an appeal is given by the said Act or Acts, or either of them, to appeal, if he, she, or they shall think fit, to the next general or quarter sessions of the peace for the county, riding, or division, wherein such corporation or franchise is situate, in as ample manner as if such corporation or franchise had not four justices of the peace : Provided always, that nothing herein contained shall be deemed or taken to extend to any city or town corporate, being a county of itself (a).

1 & 2 GEO. IV. CHAP. 32.

AN ACT for declaring valid certain Indentures of Apprenticeship, and Certificates of Settlements of Poor Persons in England (b). [28th May, 1821.]

“ WHEREAS in divers parishes, townships, hamlets, chapeltries, and places in England, for a long period of time, only one

(a) See 43 Eliz. c. 2, s. 7; 17 Geo. 51 Geo. 3, c. 80; 54 Geo. 3, c. 107; 2, c. 38, s. 8; and 4 & 5 Will. 4, 56 Geo. 3, c. 139; 3 & 4 Will. 4, c. 76. 63; 4 & 5 Will. 4, c. 76, ss. 15, 61,

(b) See 43 Eliz. c. 2, s. 3; 8 & 9 67; 7 & 8 Vict. c. 101, ss. 12, 13; Will. 3, c. 30, s. 5; 32 Geo. 3, c. 57; 17 & 18 Vict. c. 104, ss. 141, 142, 143.

APPEAL—TO WHAT SESSIONS.

Decision on
1 Geo. IV.
c. 36, s. 1.

Before the 5 & 6 Will. 4, c. 76, the whole of the parish of B. was comprised within the limits of the borough of B., but part of it being a liberty, was without the jurisdiction of the borough. There being at this time only four justices for the borough, an appeal to the county sessions, under 1 Geo. 4, c. 36, lay against the decision of the borough justices. The 5 & 6 Will. 4, c. 76, gave seven justices to the borough, and excluded from it that part of the parish of B. which formed a liberty. A rate was made for the whole parish, against which one whose rated land lay within the liberty appealed to the county sessions, on the ground that certain inhabitants of that part of the parish which was within the borough had stock in trade there and were not rated. Held, (1), on the authority of *Reg. v. Lumsdaine*, that stock in trade was liable to be rated; (2), that the appeal was properly made to the sessions for the county: *Reg. v. Bridgwater*, 8 L. J. M. C. 72; 10 A. & E. 711.

churchwarden or chapelwarden has been annually appointed, where two or more churchwardens or chapelwardens had been formerly been * appointed for each of such parishes, townships, hamlets, chapelries, or places: And whereas divers indentures for the binding of parish apprentices, and certificates of the settlements of poor persons which may have been executed and signed by such single churchwarden or chapelwarden, acting in and for a parish, township, hamlet, or place, for which formerly two or more churchwardens or chapelwardens had been appointed, may on that account, if contested in a court of law, be deemed to be null and void: And whereas much litigation has recently arisen between parishes, owing to the discovery of such defect as above mentioned in the appointment of churchwardens and chapelwardens; and it would tend to prevent future litigation, if such indentures and certificates as before mentioned were in certain cases declared to be valid and effectual;” May it therefore please your Majesty that it may be enacted, and be it enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this Act, all indentures for the binding of parish apprentices, [*and certificates of the settlement or settlements of poor persons (c),*] which have been, previous to the passing of this Act, executed or signed by one churchwarden or chapelwarden, acting or purporting to act in the capacity of churchwarden or churchwardens, chapelwarden or chapelwardens, for any parish, township, hamlet, chapelry, or place in England, for which two churchwardens or chapelwardens had formerly been appointed, shall be deemed and taken to be as good and effectual to all intents and purposes as if the same indentures or certificates had been executed by one or more churchwarden or chapelwarden, churchwardens or chapelwardens legally appointed; any law, statute, usage, or custom to the contrary notwithstanding.

* Sic.

Certain indentures and certificates of settlement declared valid.

II. Provided always, that nothing in this Act contained shall be construed to affect or set aside any decision or judgment made or given in any court of judicature respecting any such indentures or certificates, or to alter, impeach, or affect the settlement of any person for whose removal any order of justices shall have been duly made, previous to the passing of this Act, or to legalize or make valid any indentures or certificates to be signed or executed, as hereinbefore mentioned, after the passing of this Act (d).

Proviso for decisions already made.

* * * * *

(c) See 30 & 31 Vict. c. 59, which repeals 8 & 9 Vict. c. 30, s. 1.

(d) This act is “spent” as to the future, but it is still applicable to settlements obtained previous to its passing.

3 GEO. IV. CHAP. 72.

AN ACT to amend and render more effectual two Acts passed in the fifty-eighth and fifty-ninth Years of his late Majesty, for building and promoting the building of additional Churches in populous Parishes.

[22nd July, 1822.]

58 Geo. III.
c. 45.

59 Geo. III.
c. 134.

Ordnance and other public departments, and all corporations, may grant messuages, lands, &c. for sites for churches, &c.

“WHEREAS an Act passed in the fifty-eighth year of the reign of his late Majesty, intituled ‘An Act for building and promoting the building of additional Churches in populous Parishes:’ And whereas another Act passed in the fifty-ninth year of the reign of his late Majesty, intituled, ‘An Act to amend and render more effectual an Act passed in the last Session of Parliament, for building and promoting the building of additional Churches in populous Parishes:’ And whereas it is expedient and necessary that some of the provisions of the said recited Acts should be amended, and other provisions thereof explained and enlarged, and that further and additional provisions should be made, for rendering the said two recited Acts more effectual;” Be it therefore enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that it shall be lawful for the master general and principal officers of His Majesty’s Ordnance, and also for the comptroller of the barrack department, and also for the principal officers of any other public department, having or holding any messuages or buildings, or any lands, grounds, tenements, or hereditaments, for and on behalf of His Majesty, for the public use of any such department, by any grant or conveyance, signed by the master general or any two of the principal officers of the Ordnance department; or by any grant or conveyance signed by the comptroller of the barrack department; or by any grant or conveyance signed by any one or more of the principal officers of any such other public departments as aforesaid, and countersigned, as to all such last-mentioned grants or conveyances, by any three or more of the commissioners of His Majesty’s Treasury of the United Kingdom of Great Britain and Ireland; and it shall also be lawful for any and every body politic, corporate and collegiate, and corporation aggregate or sole, or for any trustees, guardians, commissioners or other persons having the control, care, or management of any hospitals, schools, charitable foundations, or other public institutions, by any grant or conveyance signed by or under the seal of such body or corporation respectively, to give, grant, and convey any messuages, buildings, lands, grounds, tenements, or hereditaments respectively; and if any such messuages, buildings, lands, grounds, tenements, or hereditaments respectively, shall be copyhold at the time of any such gift, grant, or conveyance, in any case in which the lord is willing, to enfran-

chise the same ; to be used as sites for churches or chapels, or for enlarging sites of churches or chapels ; or for church or chapel yards or cemeteries, or for enlarging sites for church or chapel yards or cemeteries ; or for parsonages or residences for ecclesiastical persons ; and all such gifts, grants, and conveyances shall be made to the commissioners or such other person or persons as shall be specified by the said commissioners, under the said recited Acts and this Act, to be used for the purposes thereof ; and all such gifts and grants may be made and given without any valuable consideration whatever ; and all conveyances and assurances made for carrying any such gifts or grants into effect shall be valid and effectual in the law to all intents and purposes whatsoever ; any law, statute, usage, or custom to the contrary thereof in anywise notwithstanding ; and all bodies politic, corporate, or collegiate, and all persons whosoever so giving, granting, and conveying as aforesaid, are hereby indemnified for or in respect of any such gift, grant, conveyance, or enfranchisement, which he, she, or they, or any of them, shall respectively make or convey by virtue of or in pursuance and for the purposes of the said recited Acts and this Act (a).

No consideration required in such grants.

Grantors indemnified.

* * * * *

3 GEO. IV. CHAP. 126.

AN ACT to amend the General Laws now in being for regulating Turnpike Roads in that Part of Great Britain called England.

[6th August, 1822.]

* * * * *

XXXII. No toll shall be demanded or taken by virtue of this or any other Act or Acts of parliament on any turnpike road * * * of or from any person or persons going to or returning from his, her, or their proper parochial church or chapel, or of or from any other person or persons going to or returning from his, her, or their usual place of religious worship tolerated by law, on Sundays, or on any day on which divine service is by authority ordered to be celebrated ; or of or from any inhabitant of any parish, township, or place, going to or returning from attending the funeral of any person who shall die and be buried in the parish, township, or hamlet in which any turnpike road shall lie ; or from any rector, vicar, or curate going to or returning from visiting any sick parishioner, or on other his parochial duty within his parish ; or for horses, carts, or waggons employed only in carrying or conveying any vagrant sent by a legal pass, or any prisoner sent by any legal warrant, or returning empty after having been so employed. * * *

Exemptions from tolls.

Persons going to or returning from church.

Attending funerals.

Ministers attending their duty.

Conveying vagrants.

* * * * *

(a) See 7 & 8 Vict. c. 101, s. 31 ; 13 & 14 Vict. c. 101, s. 2 ; 15 & 16 Vict. c. 85 ; 18 & 19 Vict. c. 128.

No person to gain a settlement by renting tolls or by residence in toll houses.

LI. No collector or person renting such tolls, or residing in such toll-house as aforesaid, and no apprentice or servant of any such collector or person, shall thereby gain a settlement in any parish or place whatsoever; and no tolls to be taken at any gate erected or to be erected by the trustees or commissioners of any turnpike road, nor toll-house erected or to be erected for the purpose of collecting the same, nor any person in respect of such tolls or toll-house, shall be rated or assessed towards the payment of any poor rates, or any other public or parochial (a) levy whatsoever.

* * * * *

(a) See 54 Geo. 3, c. 170, s. 5.

4 GEO. IV. CHAP. 27.

AN ACT to amend an Act passed in the seventh Year of the
Reign of his late Majesty King George the Third, respecting
Justices of the Quorum in Cities and Towns Corporate.

[23rd May, 1823.]

7 Geo. III.
c. 21.

“WHEREAS an Act was passed in the seventh year of the reign of his late Majesty King George the Third, intituled, ‘An Act to obviate the Inconveniences that may arise with respect to the Execution of Acts of Parliament in such Cities, Boroughs, Towns Corporate, Franchises, or Liberties, as have only one Justice of the Peace of the Quorum qualified to act within the same;’ whereby it was enacted, that in all such cities, boroughs, towns corporate, franchises, and liberties, as have only one justice of the peace of the quorum, that all acts, orders, adjudications, warrants, indentures of apprenticeship, or other instruments, which shall be made, done, or executed, by two or more justices of the peace within such cities, boroughs, towns corporate, franchises, and liberties, though neither of the said justices are of the quorum, shall be valid and effectual in law; And

SETTLEMENT.

Decisions on
3 Geo. IV.
c. 126, s. 51.

The General Turnpike Act, 13 Geo. 3, c. 84, did not extend to the tolls of a bridge, which bridge was not part of the turnpike road: *Rex v. Bubwith*, 1 M. & S. 514.

A settlement was not, under the circumstances, acquired by a demise of tolls of a bridge belonging to a corporation: *Rex v. North Duffield*, 3 M. & S. 247.

One may gain a settlement by renting a tenement above 10*l.* a year in the parish where he resided, though such residence was in a turnpike house as servant to the collector of tolls: *Rex v. Denbigh*, 5 East, 333.

A person renting the tolls and residing in the turnpike house could not gain a settlement by 13 Geo. 3, c. 84, s. 56: *Rex v. Elvet*, 11 East, 93.

whereas it is expedient that the provisions of the said Act should be extended to such cities and other jurisdictions as have two or any other limited number of justices of the quorum qualified to act within the same;” Be it therefore enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this Act, in all cases where the number of justices of the peace for any city, borough, town corporate, franchise, liberty, or other local jurisdiction, is limited, and any one, two or more of such justices only are of the quorum, all acts, orders, adjudications, warrants, indentures of apprenticeship, or other instruments, which shall be made, done, or executed, either in or out of the general quarter sessions or petty sessions, or any adjournment thereof, by virtue of any charter or grant, or by virtue of any Act of parliament made or to be made, by any two or more justices of the peace, acting within the same, though neither of the said justices be of the quorum, shall be valid in law, to all intents and purposes, as if the said justices had been of the quorum; any grant, charter, law, or custom to the contrary thereof in anywise notwithstanding (b).

In places having a limited number of justices, any of such justices empowered to act, though not of the quorum.

4 GEO. IV. CHAP. 29.

AN ACT to increase the Power of Magistrates, in Cases of Apprenticeships.

[23rd May, 1823.]

“WHEREAS by an Act made in the twentieth year of the reign of his Majesty King George the Second, intituled, ‘An Act for the better Adjusting and more easy Recovery of the Wages of certain Servants, and for the better Regulation of such Servants and of certain Apprentices,’ it is, amongst other things, enacted and provided, that it shall and may be lawful to and for any two or more justices of the peace, upon any complaint or application by any apprentice put out by the parish, or any other apprentice, upon whose binding out no larger a sum than five pounds of lawful British money was paid, touching or concerning any misuse, refusal of necessary provision, cruelty, or other ill-treatment of or towards such apprentice by his or her master or mistress, to summon such master or mistress to appear before such justices, at a reasonable time to be named in such summons; and such justices shall and may examine into the matter of such complaint, and upon proof thereof made upon oath to their satisfaction (whether the master or mistress be present or not, if service of the summons be also upon oath

See c. 34, *post*.
20 Geo. II.
c. 19, s. 3.

(b) See 26 Geo. 2, c. 27; 7 Geo. 3, c. 21; 35 Geo. 3, c. 101, s. 5.

Sect. 2.

33 Geo. III.
c. 55, s. 1.

proved), the said justices may discharge such apprentice, by warrant or certificate under their hands and seals, for which warrant or certificate no fees shall be paid (*a*); and it is also enacted, that it shall and may be lawful to and for such justices, upon application or complaint made upon oath by any master or mistress against any such apprentice, touching or concerning any misdemeanor, miscarriage, or ill-behaviour, in such his or her service (which oath such justices are hereby empowered to administer), to hear, examine, and determine the same, and to punish the offender by commitment to the house of correction, there to remain and be corrected and held to hard labour for a reasonable time, not exceeding one calendar month, or otherwise by discharging such apprentice in manner and form before mentioned (*b*): And whereas by another Act made in the thirty-third year of the reign of his late Majesty King George the Third, intituled, ‘An Act to authorize Justices of the Peace to impose Fines upon Constables, Overseers, and other Peace and Parish Officers, for neglect of Duty, and on Masters of Apprentices for ill-usage of such their Apprentices, and also to make Provision for the Execution of Warrants of Distress granted by Magistrates,’ it is enacted, that it shall and may be lawful for any two or more of His Majesty’s justices of the peace, assembled at any special or petty sessions of the peace, upon complaint made to them upon oath, by or on the behalf of any apprentice to any trade or business whatsoever, whether bound apprentice by any parish or township, or otherwise (provided that not more than the sum of ten pounds be paid upon the binding of such apprentice), against his or her master or mistress, of any ill-usage of such apprentice by such master or mistress (such master or mistress having been duly summoned to appear and answer such charge or complaint), to impose, upon conviction, any reasonable fine or fines not exceeding the sum of forty shillings, upon such master or mistress respectively, as a punishment for such ill-usage; and by warrant under the hands and seals of any two or more of such justices assembled at any such special or petty sessions as aforesaid, to direct such fine or fines, if not paid, to be levied by distress and sale of the goods and chattels of the person or persons so offending, rendering the overplus (if any), after deducting the amount of such fine or fines, and the charges of such distress and sale, to such offender or offenders (*c*): And whereas it is expedient that the provisions of the said Act should be extended to apprentices upon whose binding out a larger sum than five pounds or ten pounds respectively, as mentioned in the said Acts, was paid:” Be it therefore enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the first day of August, one thousand

(*a*) See 20 Geo. 2, c. 19, ss. 2, 3.(*c*) See 33 Geo. 3, c. 55, s. 1.(*b*) See 20 Geo. 2, c. 19, s. 4; 33 Geo. 3, c. 65, s. 1; 5 Vict. c. 7.

eight hundred and twenty-three, the provisions of the said recited Acts, so far as the same relate to apprentices, shall extend and be deemed and construed to extend to all apprentices upon whose binding out no larger a sum than twenty-five pounds of lawful British money was or shall be paid; anything contained in the said Acts, or either of them, to the contrary thereof in anywise notwithstanding.

Recited Acts to extend to apprentices bound out at no larger sum than 25*l*.

II. From and after the first day of August, one thousand eight hundred and twenty-three, it shall and may be lawful for any two or more of His Majesty's justices of the peace, in any case where they shall direct any apprentice or apprentices to be discharged under and by virtue of the said recited Acts, or of this Act, to take into consideration the circumstances under which such apprentice or apprentices shall be so discharged, and to make an order upon the master or mistress of such apprentice or apprentices to refund all or any part of the premium or premiums which may have been or shall be paid upon the binding or placing out of such apprentice or apprentices, as such justices in their discretion shall see fit; and in case any sum or sums of money which shall be so ordered to be refunded by such master or mistress, shall be neglected to be paid to the person or persons directed in any such order to receive the same, it shall and may be lawful for such two or more justices, in petty sessions, by warrant under their hands and seals, to levy the same upon the goods and chattels of such master or mistress, with the cost and charges of levying such distress, rendering the overplus of the sale of such goods and chattels, upon demand, to such master or mistress; and in case there shall not be sufficient goods and chattels whereon to levy the same, then it shall and may be lawful for such justices to commit such offender or offenders to the house of correction, for any time not exceeding two months, unless the sum or sums ordered to be refunded, with all costs, shall be sooner paid and satisfied.

In what case justices may order premium to be refunded.

If not refunded.

Levied under warrant.

If not sufficient goods.

Imprisonment.

III. The said recited Acts, and all and every the powers and provisions thereof (save and except such parts thereof as are varied, altered, or repealed), shall be as good, valid, and effectual for carrying this Act into execution as if the same had been repeated in this Act.

20 Geo. II. c. 19; 33 Geo. III. c. 55, continued. (Exception.)

4 GEO. IV. CHAP. 34.

AN ACT to enlarge the Powers of Justices in determining Complaints between Masters and Servants, and between Masters, Apprentices, Artificers, and others.

[17th June, 1823.]

20 Geo. II.
c. 19.

6 Geo. III.
c. 25.

4 Geo. IV.
c. 29.

Masters or
their steward
or agent may
make com-
plaint against
apprentices.

Justices may
abate wages,
or commit to
house of cor-
rection.

Justices may
order pay-
ment of wages
to apprentices,
provided the
sum in ques-
tion does not
exceed 10*l*.

“ WHEREAS an Act was passed in the twentieth year of the reign of his Majesty King George the Second, intituled, ‘An Act for the better Adjusting and more easy Recovery of the Wages of certain Servants, and for the better Regulation of such Servants and of certain Apprentices;’ and another Act was passed in the sixth year of the reign of his late Majesty King George the Third, intituled, ‘An Act for better Regulating Apprentices and Persons working under Contract;’ and also another Act was passed in this present session of parliament, intituled, ‘An Act to increase the Power of Magistrates in Cases of Apprenticeships;’ and it is expedient to extend the powers of the said Acts;” Be it therefore enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that it shall and may be lawful, not only for any master or mistress, but also for his or her steward, manager, or agent to make complaint upon oath against any apprentice, within the meaning of the said before recited Acts, to any justice of the peace of the county or place where such apprentice shall be employed, of or for any misdemeanor, misconduct, or ill-behaviour of any such apprentice; or if such apprentice shall have absconded, it shall be lawful for any justice of the peace of the county or place where such apprentice shall be found, or where such apprentice shall have been employed, and any such justice is hereby empowered, upon complaint thereof made upon oath by such master, mistress, steward, manager, or agent, which oath the said justice is hereby empowered to administer, to issue his warrant for apprehending every such apprentice; and further, that it shall be lawful for any such justice to hear and determine the same complaint, and to punish the offender by abating the whole or any part of his or her wages, or otherwise by commitment to the house of correction, there to remain and be held to hard labour, for a reasonable time not exceeding three months.

II. All complaints, differences, and disputes which shall arise between masters or mistresses and their apprentices, within the meaning of the said before recited Acts, or any of them, touching or concerning any wages which may be due to such apprentices, shall and may be heard and determined by one or more justice or justices of the peace of the county or place where such apprentice or apprentices shall be employed, which said justice or justices is and are hereby empowered to examine on oath any

such master or mistress, apprentice or apprentices, or any witness or witnesses, touching any such complaint, difference, or dispute, and to summon such master or mistress to appear before such justice or justices, at a reasonable time to be named in such summons, and to make such order for payment of so much wages to such apprentice or apprentices, as according to the terms of his, her, or their indentures of apprenticeship, shall appear to such justice or justices, under all the circumstances of the case, to be justly due (provided that the sum in question do not exceed the sum of ten pounds), the amount of such wages to be paid within such period as the said justice or justices shall think proper, and shall order the same to be paid; and in case of a refusal or non-payment thereof, such justice and justices shall and may issue forth his and their warrant, to levy the same by distress and sale of the goods and chattels of such master or mistress, rendering the overplus to the owners, after payment of the charges of such distress and sale.

On refusal.

Distress.

* * * * *

V. Every justice or justices of the peace before whom any complaint shall be made, in pursuance of the said before recited Act, made in the twentieth year of the reign of his late Majesty King George the Second, or of another Act made in the thirty-first year of the reign of his said late Majesty, intituled "An Act to amend an Act made in the third Year of the Reign of King William and Queen Mary, intituled 'An Act for the better Explanation and supplying the Defects of the former Laws for the Settlement of the Poor,' so far as the same relates to Apprentices gaining a Settlement by Indenture; and also to empower Justices of the Peace to determine Differences between Masters and Mistresses and their Servants in Husbandry, touching their Wages, though such Servants are hired for less Time than a Year," shall and may order the amount of the wages that shall appear due to any servants in husbandry, artificers, labourers, or other person named in the said Acts, or either of them, to be paid to the person entitled thereto, within such period as the said justice or justices shall think proper; and in case of refusal or non-payment thereof, shall and may levy the same by distress and sale, in manner directed by the said first-mentioned Act; and every order or determination of such justice or justices made under this Act shall be final and conclusive, anything in either of the said Acts contained to the contrary in anywise notwithstanding.

Justices may order payment of wages within such time as they may think fit, upon complaint made pursuant to 20 Geo. II. c. 19; 31 Geo. II. c. 11.

Order final.

VI. Provided always, that nothing in this Act contained shall extend to impeach or lessen the jurisdiction of the Chamberlain of the city of London, or of any other court within the said city, touching apprentices.

Proviso for jurisdiction of Chamberlain of London.

5 GEO. IV. CHAP. 36.

AN ACT to amend and render more effectual the several Acts for the issuing of Exchequer Bills for Public Works.

[17th May, 1824.]

57 Geo. III.
c. 34.

57 Geo. III.
c. 124.

1 Geo. IV.
c. 60.

3 Geo. IV.
c. 86.

Churchwardens, &c. with consent of vestry, may apply to commissioners authorized to make advances for public works for such loan as shall be necessary for rebuilding or repairing the parish church.

“ WHEREAS an Act was made in the fifty-seventh year of the reign of his late Majesty King George the Third, intituled ‘ An Act to authorize the Issue of Exchequer Bills and the Advance of Money out of the Consolidated Fund to a limited Amount, for the carrying on of Public Works and Fisheries in the United Kingdom, and Employment of the Poor in Great Britain, in manner therein mentioned,’ which said recited Act was amended by an Act made in the same session of parliament; and the said two Acts were further amended, and the powers of the commissioners under the said Acts extended, by an Act made in the first year of the reign of His present Majesty, and were further amended by an Act made in the third year of the reign of His present Majesty, whereby a further issue of exchequer bills was authorized for the purposes of the said Acts: And whereas it is expedient that the provisions of the said several Acts should be further extended for the purposes and in manner hereinafter mentioned:” Be it therefore enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, That from and after the passing of this Act, it shall and may be lawful for the churchwardens or chapelwardens and overseers of the poor of any parish in England or Wales, with the consent of the major part of the inhabitants and occupiers assessed to the relief of the poor in vestry assembled, or where any parish shall be under the care and management of any select vestry or other select body, then with the consent of not less than four-fifths of such select vestry or other select body, by whatever name the same may be called, and with the consent of the bishop of the diocese and the incumbent of such parish, to make application to the commissioners authorized and empowered to make advances for public works under the provisions of the said recited Acts, for any loan or advance under the powers, authorities, provisions, and regulations of the said Acts and this Act, of such sum or sums in exchequer bills or money as shall be necessary for defraying the expense or any part of the expense of rebuilding, repairing, enlarging, or otherwise extending the accommodation in any church or chapel of any such parish or of any district or division thereof respectively; and if such commissioners shall think fit to entertain such application, and shall be satisfied that such consent as required by this Act has been given and obtained, it shall and may be lawful for such commissioners, and they are hereby authorized and empowered to make and grant any such loan or advance for the purposes

aforesaid, in such manner as such commissioners are empowered to make any loan or advance under the authority of the said recited Acts or any of them; and it shall be lawful for such churchwardens or chapelwardens, together with the overseers of the poor of or for any such parish, with respect to which such application shall be made and granted, to receive the sum or sums so advanced, and to apply the same for the purposes mentioned in such application; and from and after the grant of any such loan or advance it shall be lawful for the churchwardens or chapelwardens and the overseers of the poor of the parish in respect of which such loan or loans shall be advanced as aforesaid, and their successors from time to time for the time being, and they are hereby authorized and required to make such annual or half-yearly rates for the repayment of the sums so advanced, in such proportions and at such times as shall be directed and appointed by the said commissioners on that behalf, and to assign the rates so to be made as aforesaid as a security for the repayment of the sums so advanced, in such manner and form as the said commissioners shall direct and appoint, and so as to secure the repayment of all sums so advanced, with interest thereon, at and after the rate of four pounds per centum per annum, by annual or half-yearly instalments, on the amount of the principal money advanced within the period of twenty years at farthest from the advancing of any such sums respectively (a).

Rates to be made by churchwardens and overseers for repayment of the loan with interest at 4 per cent. within 20 years.

(a) See 31 & 32 Vict. c. 109, s. 3.

CHURCH RATE.

A church rate differs from a poor rate in three things:—1, it need not be upon the net annual value; 2, if just and equal it cannot be compounded for; and 3, the landlords of small tenements cannot be rated for part thereof in lieu of the occupiers. [Compulsory church rates are now abolished by 31 & 32 Vict. c. 109]: *Attenborough v. Kemp and Page*, 6 Jur. (N. S.) 1354; 5 L. T. (N. S.) 67. Decisions on sect. 1.

Where in a parish in which little change of value of property had taken place a church rate had been made on a poor rate assessment of old standing, but corrected from time to time in vestry, the Court of Arches refused to declare such assessment unequal on a mere comparison with a valuation for poor rates made under the 25 & 26 Vict. c. 103. Such last valuation not being impeached, but no poor rate having been made upon it until after the making of the church rate in question: *Barnes v. Grant*, 13 L. T. (N. S.) 686; L. R. 1 Court of Arches, 37; 12 Jur. (N. S.) 168.

In proof of the inequality of a church rate which had been made on the poor rate in use in a parish up to the year 1863, the defendant compared it with the new valuation for poor rate made under the 25 & 26 Vict. c. 103. The plaintiffs attacked this latter valuation, among other points, by showing that it was wrongly made on the basis of the actual rent paid. And the Court of Arches held that it could not be taken as the standard of parochial assessment, and as the defendant impeached the church rate by no other evidence, and no inequality in the circumstances of the parish appeared on the rate itself, pronounced for the rate, with costs: *Edwards and Mann v. Hatton*, 13 L. T. (N. S.) 689; 13 Jur. (N. S.) 144; L. R. 1, Court of Arches, 21; 25 L. J. Ecc. 1.

Such rates to be levied as church rates may by law be levied.

II. It shall be lawful for any churchwarden or chapelwarden or overseer of or in any parish, or district or division of any parish, in which any rates shall be made under the provisions of this Act, to collect, demand, and receive, sue for, levy, and recover all such rates by all such ways and means as any church rates may by law be collected, demanded, received, sued for, levied, and recovered, as fully and effectually as if all powers, authorities, provisions, penalties, and forfeitures relating to the collecting, demanding, suing for, levying, receiving, and recovering of any church rates or relating to any refusal to pay any like rates, were specially repeated and enacted in this Act; any law, statute, usage, or custom to the contrary notwithstanding.

Where churchwardens and overseers are authorized to levy rates for building a new church, they may apply to such commissioners for a loan to be repaid in 20 years, with interest at 4 per cent.

III. Provided always, whenever in any parish in England or Wales, any churchwardens and overseers of such parish or any vestry, or any other persons shall, under or by virtue of any Act or Acts specially applicable to such parish, be authorized and empowered to make and levy any rates for defraying the expense of the building of any new church or chapel in any such parish, it shall and may be lawful for the churchwardens or overseers of such parish or any of the persons authorized to make and levy such rates, to apply to the commissioners for the execution of the said recited Acts, for any loan or advance for or towards the building such new church or chapel in such parish; and it shall be lawful for such commissioners to grant any such loan or advance upon the security of such rates, provided such rates shall be sufficient to secure the repayment of any sum so advanced, with interest after the rate of four pounds per centum per annum, within the period of twenty years from the date of such advance; and the repayment of such loan or advance, with such interest as aforesaid, within the said period of twenty years, shall be secured by mortgage or assignment of such rates in such manner and form as such commissioners shall think proper to direct; anything in any other Act or Acts relating to the building, rebuilding, or repairing of churches or chapels to the contrary in anywise notwithstanding.

* * * * *

CHURCH RATE—continued.

Decisions on sect. 1.

The word "church" in 5 Geo. 4, c. 36, s. 1, includes the chancel; and therefore a portion of a loan raised under the Act may properly be expended in repairing the chancel; yet if it did not, an improper expenditure of the loan would not affect the commissioners' right to repayment of it: *Rippin v. Bastin*, L. R. 2 Adm. & Eccl. 386; 33 J. P. 339.

A rate under 5 Geo. 4, c. 36, is not bad because one of the churchwardens had not made the declaration required by 5 & 6 Will. 4, c. 62, s. 9, if he was the churchwarden the previous year, and had then made the declaration; or because the tithe rent charge was not included in the rate: *Edney v. Smallbones*, 21 L. T. (N.S.) 506; S. C. *Smallbones v. Edney*, 40 L. J. Ecc. Ca. 8; 24 L. T. (N.S.) 241.

5 GEO. IV. CHAP. 83.

AN ACT for the Punishment of Idle and Disorderly Persons,
and Rogues and Vagabonds, in that Part of Great Britain
called England. [21st June, 1824.]

* * * * *

III. Every person being able wholly or in part to maintain himself or herself, or his or her family by work or by other means, and wilfully refusing or neglecting so to do, by which refusal or neglect he or she, or any of his or her family whom he or she may be legally bound to maintain shall have become chargeable to any parish, township, or place (a); every person returning to and becoming chargeable in any parish, township, or place from whence he or she shall have been legally removed by order of two justices of the peace, unless he or she shall produce a certificate of the churchwardens and overseers of the poor of some other parish, township, or place, thereby acknowledging him or her to be settled in such other parish, township, or place; * * * * * and every person wandering abroad, or placing himself or herself in any public place, street, highway, court or passage, to beg or gather alms, or causing or procuring or encouraging any child or children so to do, shall be deemed an idle and disorderly person within the true intent and meaning of this Act (b); and it shall be lawful for any justice of the peace to commit such offender (being thereof convicted before him by his own view, or by the confession of such offender, or by the evidence on oath of one or more credible witness or witnesses) to the house of correction, there to be kept to hard labour for any time not exceeding one calendar month (c).

Idle and disorderly persons committing certain offences herein mentioned how to be punished.

(a) See 7 & 8 Vict. c. 101, s. 6; & 12 Vict. c. 110, s. 10; and 34 & 13 & 14 Vict. c. 101, s. 5; 16 & 17 35 Vict. c. 108, s. 5.

Vict. c. 97, s. 105; and 31 & 32 Vict. (c) See 14 Car. 2, c. 12, ss. 3, 15; 3 W. & M. c. 11, s. 10; 29 & c. 122, ss. 33, 37.

(b) See 5 & 6 Vict. c. 57, s. 5; 11 30 Vict. c. 113, s. 15; and 34 & 35 Vict. c. 108, s. 7.

LIABILITY OF SOLDIERS UNDER ACT.

It was held that under 17 Geo. 2, c. 5, a common soldier, billeted in a distant parish from that in which his family resided, was not a vagrant as running away from his family, although he was able and refused to maintain them, and they became chargeable to the parish: *The Soldier's Case*, 1 Wils. 331. *Decisions on sect. 3.*

A soldier having been committed, under a magistrate's warrant, for deserting his children and leaving them chargeable to parochial relief, the court, on application by the Crown, ordered his discharge: *Re Reilly*, 4 Ir. L. R. (N. S.) 250.

LIABILITY OF HUSBAND AND FATHER.

A man is not liable to the penalty of 5 Geo. 4, c. 83, s. 3, for neglecting and refusing to maintain his wife who has left him and committed adultery, although he himself has been guilty of adultery since her leaving him: *Re v. Flintan*, 1 B. & Ad. 227.

LIABILITY OF HUSBAND AND FATHER—*continued.**Decisions on
sect. 3.*

Upon the hearing of a charge against the defendant for deserting his wife, leaving her chargeable to the parish, it appeared that for twenty-eight years he had lived with the woman, and that they had passed as man and wife, but that ten years before the charge they had separated, and had ever since lived apart, and that during that interval he had married another woman. It also appeared that before their separation he had been charged with desertion, and had then agreed with the parish officers to make the woman an allowance. Held, that there was evidence to justify the magistrates in inferring that the woman was his wife: *Reg. v. Yeomans*, 1 L. T. (N. S.) 369; 24 J. P. 149.

A. was summoned before justices, under 5 Geo. 4, c. 83, s. 3, for wilfully refusing to maintain his child, being able to do so. He proved that he and his wife had lived separate for about three years before the birth of the child, though in the same town; that she led a profligate life to his knowledge; that he always avoided her; and that she was a prostitute. The justices dismissed the information, holding the legal presumption of legitimacy was rebutted by this evidence, and the court confirmed their decision: *Sibbel v. Ainsley*, 3 L. T. (N. S.) 583; 24 J. P. 823.

Appellant was convicted under the 5 Geo. 4, c. 83, s. 3, for that whilst able to maintain his wife, he wilfully refused so to do, by which refusal she became chargeable. The evidence on which the conviction was obtained showed that the defendant had been summoned on a similar charge a few weeks previously, and had then paid 1s. and costs, and undertaken to provide his wife with 12s. a week. He had not since paid her anything, and she had thereupon applied for relief. She lived with her mother separate from her husband, who offered at the hearing to maintain her if she would come to live with him, but she refused on the ground of his previous cruelty. The justices were satisfied that the defendant was able to support his wife, and that he had been guilty of the ill-usage complained of, and convicted him as an idle and disorderly person. Held, that the facts showed no wilful refusal of the husband to maintain his wife, and therefore that the conviction could not be supported: *Flannagan v. Bishopwearmouth*, 3 Jur. (N. S.) 1103; 27 L. J. M. C. 46; 22 J. P. 464; 8 E. & B. 451.

PROCURING CHILD TO BEG.

On a charge under 5 Geo. 4, c. 83, s. 3, for procuring a child to beg, the child appeared and gave evidence that his age was 16; but there was no other evidence of the age. It was held that the magistrate, on seeing the child, and being satisfied that his age was not so much as 16, might form his own conclusion on that point, and convict accordingly: *Reg. v. Viasini*, 31 J. P. 260; 15 L. T. (N. S.) 240.

EVIDENCE OF WIFE.

Upon the hearing of an information under 5 Geo. 4, c. 83, s. 3, against a man for neglecting to maintain his wife, whereby she became chargeable to the poor rates, the wife is not a competent witness against her husband: *Reeve app.*, *Wood resp.*, 34 L. J. M. C. 15; 11 Jur. (N. S.) 201; 5 B. & S. 364.

THE CONVICTION.

It is not necessary to state in the conviction under s. 3, for neglecting to maintain family, whether it was on the justices' own view, or by confession of the offender, or by the evidence of witnesses: *Nixon v. Nanney*, 10 L. J. M. C. 134.

EXPOSING INFANT.

The merely exposing and deserting an infant a month old in a public place for the purpose of burdening the parish with its maintenance, is not an offence for which the person in whose care the infant had been, and who exposed it, can be indicted: *Rex v. Cooper*, 18 L. J. M. C. 168.

IV. Every person committing any of the offences hereinbefore mentioned, after having been convicted as an idle and disorderly person; * * * * * every person wandering abroad, and endeavouring, by the exposure of wounds or deformities, to obtain or gather alms; every person going about as a gatherer or collector of alms, or endeavouring to procure charitable contributions of any nature or kind, under any false or fraudulent pretence; every person running away and leaving his wife (a), or his or her (b) child or children (b), chargeable, or whereby she or they, or any of them, shall become chargeable to any parish, township, or place; * * * * * and every person apprehended as an idle and disorderly person, and violently resisting any constable or other peace officer so apprehending him or her, and being subsequently convicted of the offence for which he or she shall have been so apprehended, shall be deemed a rogue and vagabond, within the true intent and meaning of this Act (c); and it shall be lawful for any justice of the peace to commit such offender (being thereof convicted before him by the confession of such offender, or by the evidence on oath of one or more credible witness or witnesses) to the house of correction, there to be kept to hard labour for any time not exceeding three calendar months; * * *

Persons committing certain offences herein mentioned to be deemed rogues and vagabonds.

(a) See 31 & 32 Vict. c. 122, s. 33.

(b) See 7 & 8 Vict. c. 101, s. 6.

(c) See 34 & 35 Vict. c. 108, s. 7.

EXPOSING INFANT—continued.

Abandoning a child for the purpose of throwing it upon the parish is not an indictable offence: *Reg. v. Hogan*, 21 L. J. M. C. 219. *Decisions on sect. 3.*

RETURNING AFTER BEING REMOVED TO PLACE OF SETTLEMENT.

The justices may commit a pauper who returns after an order of removal, although the order be quashed at sessions, provided it be removed on *certiorari*, and affirmed: *Reg. v. Hall*, 5 Mod. 163.

An order of removal only prevents the person thereby removed from returning in a state of vagrancy to the same parish: *Reg. v. Fillongley*, 2 T. R. 709.

The warrant committing a pauper who returned after an order of removal on the 17 Geo. 2, c. 5, must pursue the words of the Act: *Baldwin v. Blackmore*, 1 Burr. 595; 3 T. R. 725.

The charge of returning after removal must be on oath; and the pauper must be summoned to make his defence: *Reg. v. Angell*, Bott.

The commitment must state the parish to which the pauper returned: *Reg. v. Cole*, Bott.

It is for the person proceeded against to show that he did not return to the parish in a state of pauperism: *Mann v. Davers*, 3 B. & Ald. 103.

DESERTION OF FAMILY.

The mother of a bastard child was not liable to imprisonment under the Vagrant Act, 5 Geo. 4, c. 83, for running away and leaving such child chargeable on the parish [but see 7 & 8 Vict. c. 101, s. 6]: *Reg. v. Maude*, 11 L. J. M. C. 120; 2 Dowl. 58; 6 Jur. 646. *Decisions on sect. 4.*

Who shall be deemed incorrigible rogues.

V. Every person breaking or escaping out of any place of legal confinement, before the expiration of the term for which he or she shall have been committed or ordered to be confined by virtue of this Act; every person committing an offence against this Act which shall subject him or her to be dealt with as a rogue and vagabond, such person having been at some former time adjudged so to be and duly convicted thereof; and every person apprehended as a rogue and vagabond, and violently resisting any constable or other peace officer so apprehending him or her, and being subsequently convicted of

DESERTION OF FAMILY—*continued.*

Decisions on
sect. 4.

It is necessary that the wife and children should have become actually chargeable; and it is not sufficient that the chargeability is merely imminent, and that actual chargeability subsequently ensues: *Heath v. Heape*, 26 L. J. M. C. 49; 1 H. & N. 478; 20 J. P. 760.

A mother who, having obtained an order for the admission of herself and two children into the union workhouse, takes and leaves her children at the gate of the workhouse, with the order in their hands, and returns to her usual residence, which is in the borough where the workhouse is situated, is not a person who runs away, leaving her children chargeable to the parish, within the meaning of 5 Geo. 4, c. 83, s. 4: *Reg. v. Parr*, 4 L. T. (N. S.) 323; 25 J. P. 518; 10 C. B. (N. S.) 99; 30 L. J. M. C. 241; 7 Jur. (N. S.) 1303.

Where a man runs away from his wife and children, and they do not become chargeable to the parish until some time after such desertion, the offence, under 5 Geo. 4, c. 83, s. 4, is not complete until such chargeability arises, and therefore the six months limited by the 11 & 12 Vict. c. 43, s. 11, for laying the information, is to be reckoned from the latter event: *Reeve v. Yeates*, 8 Jur. (N. S.) 751; 31 L. J. M. C. 241; 26 J. P. 808; 1 H. & C. 435.

To make a person liable as a rogue and vagabond for running away and leaving his wife chargeable to the parish, he must leave her wilfully, and reasonably believe at the time that she would become chargeable: *Ex parte Reed*, 22 J. P. (N.) 271; *Sweeney v. Spooner*, 7 L. T. (N. S.) 623; 27 J. P. 181; 9 Jur. (N. S.) 691; 32 L. J. M. C. 82; 3 B. & S. 329.

Upon a complaint by an assistant overseer of a parish situated in a poor law union, that a person has deserted his wife and family, leaving them chargeable to such parish, it is no objection that the proceedings have not been taken by direction of the board of guardians: *Reg. v. Mirehouse*, 32 L. J. M. C. 90; 7 L. T. (N. S.) 721; 27 J. P. 88.

CHARGEABILITY MUST ENSUE.

A man leaving his wife cannot be treated as a rogue under the Vagrant Act, unless the wife has become actually chargeable: *Heath v. Heape*, 1 H. & N. 478; 26 L. J. Ex. 161.

LIABILITY OF MOTHER.

A wife is equally punishable with her husband for deserting her children, and therefore could not leave them behind her: *St. George v. St. Catherine*, Ld. Raym. 1474; Bott.

ORDER FOR COSTS.

Upon an appeal to the quarter sessions against a conviction as a rogue and vagabond under 5 Geo. 4, c. 83, s. 4, the sessions have power to give costs against the prosecutor; and the justices who have convicted the appellant, and who do not appear to support the conviction, are not the parties against whom an order for costs can be made: *Reg. v. Purdy*, 34 L. J. M. C. 4.

the offence for which he or she shall have been so apprehended, shall be deemed an incorrigible rogue within the true intent and meaning of this Act; and it shall be lawful for any justice of the peace to commit such offender (being thereof convicted before him by the confession of such offender, or by the evidence on oath of one or more credible witness or witnesses) to the house of correction, there to remain until the next general or quarter sessions of the peace; and every such offender who shall be so committed to the house of correction, shall be there kept to hard labour during the period of his or her imprisonment^(a).

VI. It shall be lawful for any person whatsoever to apprehend any person who shall be found offending against this Act^(b), and forthwith to take and convey him or her before some justice of the peace, to be dealt with in such manner as is hereinbefore directed, or to deliver him or her to any constable or other peace officer of the place where he or she shall have been apprehended, to be so taken and conveyed as aforesaid; and in case any constable or other peace officer shall refuse or wilfully neglect to take such offender into his custody, and to take and convey him or her before some justice of the peace, or shall not use his best endeavours to apprehend and to convey before some justice of the peace any person that he shall find offending against this Act, it shall be deemed a neglect of duty in such constable or other peace officer, and he shall on conviction be punished in such manner as is hereinafter directed.

Any person may apprehend offenders.

Constables, &c. neglecting their duty.

Punishment.

VII. It shall be lawful for any justice of the peace, upon oath being made before him that any person hath committed or is suspected to have committed any offence against this Act, to issue his warrant to apprehend and bring before him or some other justice of the peace the person so charged, to be dealt with as is directed by this Act.

Justices may issue warrant to apprehend suspected persons.

VIII. It shall be lawful for any constable, peace officer, or other person apprehending any person charged with being an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, to take any horse, mule, ass, cart, car, caravan, or other vehicle, or goods in the possession or use of such person, and to take and convey the same as well as

Vagrants to be searched and trunks, bundles, &c. to be inspected.

(a) See 14 Car. 2, c. 12, s. 15.

(b) See 7 & 8 Vict. c. 101, s. 59; and 34 & 35 Vict. c. 108, s. 8.

APPREHENSION OF OFFENDER.

The summary power of apprehension does not apply to the case of a man who is charged with having neglected to support his family, whereby they have become chargeable to the parish; and a constable was held to have acted correctly in refusing to apprehend the man, for he was not found offending within the meaning of the Act: *Horley v. Rogers*, 2 L. T. (N. S.) 171; 6 Jur. (N. S.) 605; 29 L. J. M. C. 140; 2 E. & E. 674; 24 J. P. 582.

Decision on sect. 6.

such person before some justice of the peace, and for every justice of the peace by whom any person shall be adjudged to be an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, to order that such offender shall be searched, and that his or her trunks, boxes, bundles, parcels, or packages shall be inspected in the presence of the said justice, and of him or her, and also that any cart, car, caravan, or other vehicle which may have been found in his or her possession or use, shall be searched in his or her presence; and it shall be lawful for the said justice to order that any money which may be then found with or upon such offender shall be paid and applied for and towards the expense of apprehending, conveying to the house of correction, and maintaining such offender during the time for which he or she shall have been committed; and if upon such search, money sufficient for the purposes aforesaid be not found, it shall be lawful for such justice to order that a part, or if necessary the whole of such other effects then found, shall be sold, and that the produce of such sale shall be paid and applied as aforesaid, and also that the overplus of such money or effects, after deducting the charges of such sale, shall be returned to the said offender (a).

Money and effects found upon vagrants applied towards expense of apprehending and maintaining them.

Justices may bind persons by recognizance to prosecute vagrants at sessions.

IX. When any justice as aforesaid shall commit any such incorrigible rogue to the house of correction, there to remain till the next general or quarter sessions, or when any such idle and disorderly person, rogue and vagabond, or incorrigible rogue, shall give notice of his or her intention to appeal against the conviction of him or her, and shall enter into recognizance as hereinafter directed to prosecute such appeal, such justice shall require the person by whom such offender shall be apprehended, and the person or persons whose evidence shall appear to him to be material to prove the offence and to support such conviction, to become bound in recognizance to His Majesty, his heirs and successors, to appear at the said general or quarter sessions, to give evidence against such offender touching such offence; and the justices of the peace at their said general or quarter sessions are hereby authorized and empowered, at the request of any person who shall have become bound in any such recognizance, to order the treasurer of the county, riding, division, or place in which the offence shall have been committed, to pay unto such prosecutor, and unto the witness or witnesses on his or her behalf, such sum or sums of money as to the court shall seem reasonable and sufficient to reimburse such prosecutor and such witness or witnesses respectively for the expenses he, she, or they shall have been severally put to, and for his, her, or their trouble and loss of time in and about such prosecution; which order the clerk of the peace is hereby directed and required forthwith to make out and deliver unto such prosecutor, or unto such witness or witnesses, upon being

Sessions may order payment of expenses to prosecutors and witnesses.

Clerk of the peace to make out and deliver order.

(a) See 11 & 12 Vict. c. 110, s. 10; and 12 & 13 Vict. c. 103, s. 16.

paid for the same the sum of two shillings and no more; and the said treasurer is hereby authorized and required, upon sight of such order, forthwith to pay unto such prosecutor or other person or persons authorized to receive the same, such money as aforesaid, and the said treasurer shall be allowed the same in his account; and in case any such person or persons as aforesaid shall refuse to enter into such recognizance, it shall be lawful for such justice to commit such person or persons so refusing to the common gaol, there to remain until he, she, or they shall enter into such recognizance, or shall be otherwise discharged by due course of law.

X. When any incorrigible rogue shall have been committed Sessions may to the house of correction, there to remain until the next general detain and or quarter sessions, it shall be lawful for the justices of the keep to hard peace there assembled to examine into the circumstances of the labour, and case, and to order, if they think fit, that such offender be further punished by whipping, imprisoned in the house of correction, and be there kept rogues and to hard labour for any time not exceeding one year from the vagabonds and time of making such order, and to order further, if they think incorrigible fit, that such offender (not being a female) be punished by rogues. whipping, at such time during his imprisonment, and at such place within their jurisdiction, as according to the nature of the offence they in their discretion shall deem to be expedient.

XI. In case any constable or other peace officer shall neglect Officers neg- his duty in anything required of him by this Act, or in case lecting their any person shall disturb or hinder any constable or other peace duties, &c. officer in the execution of this Act, or shall be aiding, abetting, Obstructing or assisting therein, and shall be thereof convicted upon the them. oath of one or more credible witness or witnesses before one or more justice or justices of the peace where such offence shall be committed, every such offender shall for every such offence forfeit any sum not exceeding five pounds; and in case such Penalty. offender shall not forthwith pay such sum so forfeited, the same Distress. shall be levied by distress and sale of the offender's goods, by warrant from such justice or justices; and if sufficient distress cannot be found, it shall be lawful to and for one or more such justice or justices to commit the person so offending to the house of correction, there to be kept for any time not exceeding three calendar months, or until such fine be paid; and the said Imprisonment. justice or justices shall cause the said fine, when paid, to be forthwith delivered to the treasurer of the county, riding, division, or place where such offence shall have been committed, to be by him added to and used as part of the stock of the said county, riding, division, or place.

XII. In case any constable or other peace officer shall be On conviction convicted before any one or more justice or justices of the of officers, &c. peace, for any neglect of any duty required of him by this Act, justices to or of any disobedience of any lawful warrant or order of any make order for

payment of
expenses of
prosecution as
under.

33 Geo. III.
c. 55.

justice or justices of the peace issued under the provisions of this Act, and in case any two or more justices of the peace shall impose any fine, or direct any penalty to be paid by such officer, under and by virtue of the powers given to justices of the peace by an Act passed in the thirty-third year of the reign of his late Majesty King George the Third, intituled "An Act to authorize Justices of the Peace to impose Fines upon Constables, Overseers, and other Peace or Parish Officers, for Neglect of Duty, and on Masters of Apprentices for Ill-usage of such their Apprentices, and also to make Provision for the Execution of Warrants of Distress granted by Magistrates," or under any other powers enabling such justices in that behalf, then and in every such case it shall be lawful for such justice or justices, upon conviction of any such offender, to reimburse and allow to the person or persons on whose complaint or information such offender shall have been convicted, all necessary costs and expenses which such person or persons may thereby have incurred, or by any appeal made in consequence thereof, by making an order under his or their hands and seals upon the treasurer of the county, riding, division, or place, to pay to such person or persons the amount of such costs and expenses, on producing the said order and giving a receipt for the same, and the same shall be allowed to the said treasurer in his account.

Lodging-
houses, &c.
suspected to
conceal
vagrants may
be searched,
and suspected
persons
brought before
a justice.

XIII. It shall be lawful for any justice of the peace, upon information on oath before him made, that any person hereinbefore described to be an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, is or is reasonably suspected to be harboured or concealed in any house kept or purporting to be kept for the reception, lodging, or entertainment of travellers, by warrant under his hand and seal, to authorize any constable or other person or persons to enter at any time into such house, and to apprehend and bring before him or any other justice of the peace every such idle and disorderly person, rogue and vagabond, and incorrigible rogue as shall be found therein, to be dealt with in the manner hereinbefore directed (*a*).

Appeal to
sessions.

XIV. Any person aggrieved by any act or determination of any justice or justices of the peace out of sessions, in or concerning the execution of this Act, may appeal to the next general or quarter sessions for the county, riding, division, or place in and for which such justice or justices shall have so acted, giving to the justice or justices of the peace, whose act or determination shall be appealed against, notice in writing of such appeal, and of the ground thereof, within seven days after such act or determination, and before the next general or quarter sessions, and entering within such seven days into a recognizance,

Notice.

Recognizance.

(*a*) See 14 & 15 Vict. c. 28; and 16 & 17 Vict. c. 41, s. 8.

with sufficient surety, before a justice of the peace for the county or place in which such person shall have been convicted, personally to appear and prosecute such appeal (b) ; and upon such notice being given, and such recognizance being entered into, such justice is hereby empowered to discharge such person out of custody ; and the court at such general or quarter sessions shall hear and determine the matter of such appeal, and shall make such order therein as shall to the said court seem meet, and in case of the dismissal of the appeal, or the affirmance of the conviction, shall issue the necessary process for the apprehension and punishment of the offender, according to the conviction. Sessions may determine.

XV. Provided always, that nothing herein contained shall extend or be construed to extend so as to restrain, hinder, or prevent any visiting justice of any county gaol, house of correction, or other prison, from granting a certificate or other instrument for enabling any person discharged from a county gaol, house of correction, or other prison, to have or receive alms or relief in or upon his or her route to his or her place of settlement ; provided that such certificate be made and drawn up in compliance with the directions and provisions of any Act or Acts of parliament for the better regulation and management of gaols, houses of correction, or prisons ; and if any person to whom any such certificate or instrument shall be delivered, shall act in any manner contrary to the directions or provisions of such certificate or instrument, or shall loiter upon his or her route, or shall deviate therefrom, every such person shall be and be deemed to be a rogue and vagabond within the provisions and directions of this Act, and shall be punished accordingly. Visiting justices of gaols, &c. may grant certificates to persons discharged to receive alms in their route. Such persons loitering, &c. deemed rogues.

XVI. From and after the passing of this Act, no justice of the peace, mayor, or other magistrate, shall grant to any person, other than a person entitled thereto under and by virtue of an Act passed in the forty-third year of the reign of his late Majesty King George the Third, intituled, " An Act for the Relief of Soldiers, Sailors, and Marines, and of the Wives of Soldiers in the Cases therein mentioned, so far as relates to England " (c), any certificate or other instrument enabling such person to ask alms or relief in their route to any place, or for any other purpose whatever ; and every person asking alms or relief under and by virtue of any certificate or other instrument hereby prohibited, is liable to be declared to be an idle and disorderly person, in like manner as if he or she had possessed no such certificate or other instrument as aforesaid. No certificates except to those entitled under 43 Geo. III. c. 61. Other persons asking alms deemed idle, &c.

(b) See 1 & 2 Vict. c. 38, s. 1.

(c) See 43 Geo. 3, c. 61, s. 1.

Form of conviction under this Act.

XVII. No proceeding to be had before any justice or justices of the peace under the provisions of this Act shall be quashed for want of form; and every conviction of any offender, as an idle and disorderly person, or as a rogue and vagabond, or as an incorrigible rogue, under this Act, shall be in the form or to the effect following, or as near thereto as circumstances will permit; (that is to say) (a).

} “Be it remembered, that on the day of
to wit. } in the year of our Lord at in the county
of A. B. is convicted before me C. D. one of His Majesty’s
justices of the peace in and for the said county, of being an
idle and disorderly person [or a rogue and vagabond, or an
incorrigible rogue] within the intent and meaning of the
statute made in the fifth year of the reign of His Majesty
King George the Fourth, intituled ‘An Act [here insert the
title of this Act];’ that is to say, for that the said A. B. on the
at in the said county [here state the offence proved
before the magistrate], and for which said offence the said A. B.
is ordered to be committed to the house of correction at
there to be kept to hard labour for the space of [or until
the next general or quarter sessions]. Given under my hand
and seal the day, year, and at the place first above written.”

Conviction to be transmitted to the sessions, and a copy thereof to be evidence.

And the justice or justices of the peace before whom any such conviction shall take place shall, and he and they is and are hereby required to transmit the said conviction to the next general or quarter sessions of the peace to be holden in and for the county, riding, division, or place wherein such conviction shall have taken place, there to be filed and kept on record; and a copy of the conviction so filed, duly certified by the clerk of the peace, shall and may be read as evidence in any court of record, or before any justice or justices of the peace acting under the powers and provisions of this Act.

Justices, &c. to have treble costs if judgment be in their favour.

XVIII. In all cases where an action shall be brought against any justice of the peace, constable, or other person, for or on account of any matter or thing whatsoever done or commanded by him in the execution of his duty or office under this Act, such justice, constable, or other person, if he shall have judgment in his favour, shall have treble costs (b) awarded to him by the court, unless the judge shall certify that there was a reasonable cause for such action.

(a) See 11 & 12 Vict. c. 43, s. 17.

(b) See 5 & 6 Vict. c. 97, s. 2.

EVIDENCE OF PREVIOUS CONVICTION.

Decision on sect. 17.

The 5 Geo. 4, c. 83, s. 17, requires convictions under it to be returned to the next general or quarter sessions, and filed and kept on record; and therefore evidence of a previous conviction under the Act can be proved only by proof of the record thereof; neither oral testimony nor the minute book of the convicting justices is sufficient proof of the conviction: *Giles v. Siney*, 11 L. T. (N. S.) 310.

XIX. Every such action shall be commenced within three calendar months after the cause of action or complaint shall have arisen, and not afterwards; and if any person or persons shall be sued for any matter or thing which he, she, or they shall have done in the execution of this Act, he, she, or they may plead the general issue, and give the special matter in evidence.

Limitation of actions.

General issue.

XX. Every person who under the provisions of this Act shall have been convicted as an idle and disorderly person, or as a rogue and vagabond, shall be deemed to be actually chargeable to the parish, township, or place in which such person shall reside (c); and such person shall be liable to be removed to the parish of his or her last legal settlement, by the order of two justices of the peace of the division or place in which such person shall reside.

Persons convicted chargeable to parish in which they reside.

* * * * *

XXII. Provided also, that nothing herein contained shall be construed to extend or apply to Scotland or Ireland, nor to alter any law now in force for the removal of poor persons born in [*Scotland, Ireland (d),*] or the Isle of Man, [*Jersey and Guernsey (e),*] and becoming chargeable to parishes in England, such person not having committed acts of vagrancy as hereinbefore described, nor to alter any law now in force relating to lunatic vagrants (f).

Proviso for Acts in force in Scotland and Ireland relative to removal of poor, &c.

6 GEO. IV. CHAP. 50.

An Act for consolidating and amending the Laws relative to Jurors and Juries (g). [22nd June, 1825.]

“WHEREAS the laws relative to the qualification and summoning of jurors, and the formation of juries in England and Wales, are very numerous and complicated, and it is expedient to consolidate and simplify the same, and to increase the number of persons qualified to serve on juries, and to alter the mode of striking special juries, and in some other respects to amend the said laws;” Be it therefore enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that every man, except as hereinafter excepted, between the ages of twenty-one years and sixty years, residing in any county in England, who shall have in his own name or in trust for him, within the same county, ten pounds by the year above reprises

Age and qualification of jurors in England in superior courts,

(c) See 35 Geo. 3, c. 101, s. 5.

(f) See 8 & 9 Vict. c. 117; 10 &

(d) Repealed by 3 & 4 Will. 4, c. 11 Vict. c. 33; 24 & 25 Vict. c. 76; and 26 & 27 Vict. c. 89.

(e) Repealed by 11 Geo. 4 and 1 Will. 4, c. 5, s. 1. (g) See 33 & 34 Vict. c. 77, ss. 3, 4.

assizes, and sessions of the peace.

(See 13 Ed. I. c. 38; 27 Eliz. c. 6; 4 & 5 Wm. & M. c. 25, s. 15; 3 Geo. II. c. 25, s. 18.)

Age and qualification in Wales. (See 4 & 5 Wm. & M. c. 25, s. 15.)

in lands or tenements, whether of freehold, copyhold, or customary tenure, or of ancient demesne, or in rents issuing out of any such lands or tenements, or in such lands, tenements, and rents taken together, in fee simple, fee tail, or for the life of himself or some other person, or who shall have within the same county twenty pounds by the year above reprises, in lands or tenements, held by lease or leases for the absolute term of twenty-one years, or some longer term, or for any term of years determinable on any life or lives, or who being a householder shall be rated or assessed to the poor rate, or to the inhabited house duty in the county of Middlesex, on a value of not less than thirty pounds, or in any other county on a value of not less than twenty pounds, or who shall occupy a house containing not less than fifteen windows, shall be qualified and shall be liable to serve on juries for the trial of all issues joined in any of the King's courts of record at Westminster, and in the superior courts, both civil and criminal, of the three counties palatine, and in all courts of assize, nisi prius, oyer and terminer, and gaol delivery, such issues being respectively triable in the county in which every man so qualified respectively shall reside, and shall also be qualified and liable to serve on grand juries in courts of sessions of the peace, and on petty juries for the trial of all issues joined in such courts of sessions of the peace, and triable in the county, riding, or division in which every man so qualified respectively shall reside; and that every man (except as hereinafter excepted) being between the aforesaid ages, residing in any county in Wales, and being there qualified to the extent of three-fifths of any of the foregoing qualifications, shall be qualified and shall be liable to serve on juries for the trial of all issues joined in the courts of great sessions, and on grand juries in courts of sessions of the peace, and on petty juries for the trial of all issues joined in such courts of sessions of the peace, in every county of Wales, in which every man so qualified as last aforesaid respectively shall reside (a).

* * * * *

High constables to issue precepts to churchwardens, &c. to make out jury lists.

VI. Within fourteen days after the receipt of such warrant of the clerk of the peace, every high constable shall issue and deliver his precept (in the form set forth in the Schedule hereunto annexed, or as near thereto as may be), together with a competent number of the printed forms of returns, to the churchwardens and overseers of the poor of the several parishes, and to the overseers of the poor of the several townships within his constablewick, requiring them by such precept to prepare and make out a true list of all men residing within their respective parishes and townships, qualified and liable to serve as jurors as aforesaid, and to perform and comply with all the requisitions in the said precept contained: Provided always, that where in any hundred, lathe, wapentake, or other like district, there

(a) See 33 & 34 Vict. c. 77, s. 7.

shall be more than one high constable, in such case the clerk of the peace shall issue and deliver his warrant, together with a competent number of the precepts and returns as aforesaid, to every one of such high constables, each of whom shall be individually liable for the due performance of the several matters commanded in such warrant throughout the whole of such hundred, lathe, wapentake, or other like district, and shall for the nonperformance thereof be subject to all and every the penalties by this Act imposed upon any high constable: Provided also, that where in any parish there shall be no overseers of the poor, other than the churchwardens, such churchwardens shall be deemed and taken to be the churchwardens and overseers of the poor of such parish within the meaning of this Act, to all intents and purposes: Provided also, that where any parish or township shall extend into more than one hundred, lathe, wapentake, or other like district, either in the same or different counties, such parish or township shall be deemed and taken, for all the purposes of this Act, to be within that hundred, lathe, wapentake, or other like district, in which the principal church of such parish or township shall be situate.

Where there are several high constables, each responsible throughout the whole hundred.

Provido where no overseers.

Parishes, &c. extending into more than one hundred, treated as where parish church is.

VII. It shall be lawful for the justices of the peace of any division in England or Wales, at a special petty sessions to be holden for that purpose before the first day of July in any year, to make an order for annexing any extraparochial place, whenever they shall think it expedient, to any parish or township adjoining thereto, for the purposes of this Act, and a copy of such order shall, within five days from the making thereof, be served upon the churchwardens and overseers of such adjoining parish, or upon the overseers of such adjoining township, and such extraparochial place shall from thence continually be deemed and taken, for all the purposes of this Act, to be within and to form an integral part of such parish or township; and the churchwardens and overseers of such parish, and the overseers of such township, shall be, and they are hereby respectively authorized and required to make out, according to this Act, a true list of all men qualified and liable to serve on juries as aforesaid, residing as well in their own respective parish or township as in the extraparochial place thereto annexed, and shall from time to time perform and execute within such extraparochial place, for the purposes of this Act, but for no other purpose, all and every the same acts, duties, powers, and authorities, as in their own respective parish or township, and shall be as fully liable to the same penalties for the nonperformance thereof within such extraparochial place, as if they had in every instance been mentioned in this Act with reference to such extraparochial place.

Justices of division may order any extra parochial place to be annexed to any adjoining parish or township, for the purposes of this Act.

VIII. The churchwardens and overseers of every parish, and the overseers of every township, within the meaning of this Act, shall forthwith, after the receipt of such precept from the Churchwardens, &c. to make out lists

of persons
qualified to
serve.
(See 3 & 4
Anne, c. 18,
s. 5.)

high constable (*b*), prepare and make out in alphabetical order a true list of every man residing within their respective parishes or townships, who shall be qualified and liable to serve on juries as aforesaid (*c*), with the Christian and surname written at full length, and with the true place of abode, the title, quality, calling or business, and the nature of the qualification of every such man, in the proper columns of the form of return set forth in the Schedule hereunto annexed (*d*).

Lists to be
fixed on
church doors,
and also kept
by church-
wardens for
inspection.

No fee.

Copies printed
at expense of
parishes.

IX. The churchwardens and overseers of each parish, and the overseers of each township, having made out according to this Act a list of every man qualified and liable to serve on juries as aforesaid, shall, on the three first Sundays in the month of September, fix a true copy of such list upon the principal door of every church, chapel, and other public place of religious worship within their respective parishes or townships, having first subjoined to every such copy a notice, stating that all objections to the list will be heard by the justices of the peace at a time and place to be mentioned in such notice, and having also signed their names at the foot of such copy, and shall likewise keep the original list, or a true copy thereof, to be perused by any of the inhabitants of their respective parishes or townships, at any reasonable time during the three first weeks of the month of September, without any fee or reward, to the end that notice may be given of men qualified who are omitted, or of men inserted who ought to be omitted out of such list; and the churchwardens and overseers of each parish, and the overseers of each township, are hereby authorized to cause a sufficient number of copies of such lists, for the purposes aforesaid, to be printed at the expense of their respective parishes or townships.

Petty sessions
held last week
of September.

X. The justices of the peace in every division in England and Wales shall hold a special petty sessions for the purposes herein mentioned, within the last seven days of September in every year, on some day and at some place, of which notice shall be given by their clerk, before the twentieth day of August next preceding, to the high constable and to the churchwardens and overseers of every parish, and to the overseers of every township, within such division; and the churchwardens and overseers of each parish, and the overseers of each township, shall then and there produce the list of men qualified and liable

(*b*) See 25 & 26 Vict. c. 107, s. 3.

(*d*) See 7 & 8 Vict. c. 101, s. 60;

(*c*) See 33 & 34 Vict. c. 77, s. 6.

13 & 14 Vict. c. 57, s. 7; and 25 & 26 Vict. c. 107, ss. 4, 6.

SIGNATURE OF JURY LISTS.

*Decision on
sect. 9.*

A churchwarden continues in office till his successor has made the statutory declaration, and hence must continue to sign the jury lists and do other duties pertaining to the office till he is released by a successor duly admitted: *Bray v. Somers*, 2 B. & S. 374; 31 L. J. M. C. 175.

to serve on juries as aforesaid within their respective parishes or townships, by them prepared and made out, as hereinbefore directed, and shall answer upon oath such questions touching the same as shall be put to them, or any of them by the justices then present; and if any man, not qualified and liable to serve on juries as aforesaid, is inserted in any such lists, it shall be lawful for the said justices, upon satisfaction from the oath of the party complaining, or other proof or upon their own knowledge that he is not qualified and liable to serve on juries, to strike his name out of such list, and also to strike thereout the names of men disabled by lunacy or imbecility of mind, or by deafness, blindness, or other permanent infirmity of body from serving on juries; and it shall also be lawful for such justices to insert in such lists the name of any man omitted therein, and likewise to reform any errors or omissions which shall appear to them to have been committed in respect to the name, place of abode, title, quality, calling, business, or the nature of the qualification of any man included in any such list: Provided always, that no man's name, if omitted, shall be inserted in such list, nor shall any error or omission in the description of any man in such list be reformed by the said justices, unless upon the application of such men respectively, or unless such men respectively shall have had notice that an application for such purpose would be made to the justices at such petty sessions, or unless the said justices at such sessions, or any two of them, shall cause notice to be given to such men respectively, requiring them to show cause, at some adjournment of such petty sessions to be holden within four days thereafter, why their names should not be inserted in such list, or why any error or omission in the description of such men in such list should not be reformed, and when every such list shall be duly corrected at such sessions, or at such adjournment thereof, it shall be allowed by the justices present, or two of them, at such sessions or such adjournment, who shall sign the same, with their allowance thereof; and the high constable shall receive every list so allowed, and deliver the same to the court of quarter sessions next holden for the county, riding, or division, on the first day of its sitting, at the same time attesting on oath his receipt of every such list from the petty sessions, and that no alteration hath been made therein since his receipt thereof (e).

Lists to be there produced, considered, reformed, and allowed,
3 Geo. II. c. 25

Incapacity by lunacy, &c.

Petty sessions not to alter list without notice to party affected thereby.

Power of adjournment.

Proceedings as to lists, after allowance by petty sessions. (See 3 Geo. II. c. 25, s. 7.)

XI. The respective churchwardens and overseers of every parish, and the overseers of every township, shall for their assistance in completing the lists, pursuant to the intent of this Act (upon request made by them or any of them at any reasonable time between the first day of July and the first day of October in every year, to any collector or assessor of taxes, or to any other officer having the custody of any duplicate or tax

Tax assessments and poor rates to be inspected by churchwardens, &c. (See 3 Geo. II. c. 25, s. 1.)

(e) See 25 & 26 Vict. c. 107, ss. 7, 8.

And by justices, &c.

assessment for such parish or township), have free liberty to inspect any such duplicate or assessment, and take from thence the names of such men qualified to serve on juries, dwelling within their respective parishes or townships, as may appear to them or any of them to be necessary or useful; and every court of petty sessions and justice of the peace shall, upon the like request to any collector or assessor of taxes, or any other officer having the custody of any duplicate or tax assessment, or to any churchwarden or churchwardens, or overseer or overseers having the custody of any poor rate within their respective divisions, have the like free liberty to inspect and make extracts from any such duplicate tax assessment or poor rate, for the purpose of assisting them in the reformation and completion of the jury lists within their respective divisions.

* * * * *

Penalties on churchwardens and overseers neglecting to make out lists, and otherwise offending.

XLV. If any churchwarden or overseer of any parish, or any overseer of any township within the meaning of this Act, shall refuse or neglect (unless prevented by sickness) to assist in making out any list required by this Act, so that the same shall not be made out at the time and in the manner hereinbefore directed; or shall wilfully omit out of such list any man whose name ought to be inserted therein, or shall wilfully insert therein the name of any man who ought to be omitted, or shall take any money or other reward for omitting or inserting any man whatsoever, or shall wilfully insert therein a wrong description of the name, place of abode, title, quality, calling, business, or the nature of the qualification of any man; or shall refuse or neglect, in case the number of forms of return delivered by the high constable shall be insufficient, to apply to the high constable^(a) for a sufficient number, so that the list may be made out at the time and in the manner hereinbefore directed; or shall refuse or neglect to fix a copy of such list duly signed, or to subjoin thereto such notice as hereinbefore required, on the principal door of any church, chapel, or other public place of religious worship within their respective parishes or townships, on any of the Sundays on which the same ought to be fixed; or shall refuse to allow any inhabitant or their respective parishes or townships to inspect such list, or a true copy thereof, *gratis*, at any reasonable time during the three weeks hereinbefore mentioned; or shall, on due notice, refuse or neglect to produce such list at such petty sessions as aforesaid, or to answer on oath such questions touching the same as shall there be put, or to attend at such petty sessions, or any such adjournment thereof as aforesaid; or shall refuse to allow the said petty sessions, or any justice of the peace, upon due request, to inspect or make any extracts from the poor rate of any parish or township within their respective divisions,

(a) See 25 & 26 Vict. c. 107, ss. 3, 6.

for the purposes hereinbefore mentioned, such rate being in the custody of the party so refusing: every such churchwarden or overseer offending in any of the foregoing cases shall, for every such offence, forfeit a sum not exceeding ten pounds nor less than forty shillings, at the discretion of the justice before whom he shall be convicted; and the justice before whom such offender shall be convicted of any such offence of wrongful insertion or omission, shall forthwith, in writing under his hand, certify the same to the clerk of the peace of the county, riding, or division in which the man or men so wrongfully omitted or inserted shall reside, and the said clerk of the peace shall cause the list in which such wrongful insertion or omission shall have occurred to be corrected according to such certificate, and shall also give notice thereof to the sheriff or undersheriff, who shall correct the jurors' book accordingly.

Penalty.

How justices to act thereon.

* * * * *

6 GEO. IV. CHAP. 57.

AN ACT for the Amendment of the Law respecting the Settlement of the Poor as far as regards renting Tenements and paying Parochial Taxes.

[22nd June, 1825.]

“WHEREAS the settlement of the poor has been made, in some instances, to depend upon the annual value of tenements which they may have rented, or upon the annual value of tenements in virtue of which they have paid parochial rates: And whereas the ascertaining such value, in such respective cases, has given rise to very expensive litigation: And whereas doubts have been entertained, whether an Act made in the fifty-ninth year of King George the Third, intituled ‘An Act to amend the Laws respecting the Settlement of the Poor, as far as regards renting Tenements,’ has been effectual for the purpose of altering the law in respect of the necessity of proving the annual value of tenements so rented; and it is expedient that further provision be made relating thereto:” Be it therefore enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this Act, the said recited Act of the fifty-ninth year of the reign of King George the Third, intituled “An Act to amend the Laws respecting the Settlement of the Poor, so far as regards renting Tenements,” shall be and the same is hereby repealed.

59 Geo. III.
c. 50.

Repealed.

What shall be deemed acquiring a settlement.

Proviso.

II. No person shall acquire a settlement in any parish or township maintaining its own poor, by or by reason of settling upon, renting, or paying parochial rates for any tenement, not being his or her own property, unless such tenement shall consist of a separate and distinct dwelling-house or building, or of land, or of both, *bonâ fide* rented by such person, in such parish or township, at and for the sum of ten pounds a year at the least, for the term of one whole year; nor unless such house or building, or land, shall be occupied under such yearly hiring, and the rent for the same, to the amount of ten pounds, actually paid, for the term of one whole year at the least: Provided always, that it shall not be necessary to prove the actual value of such tenement; anything in any Act or Acts, or any construction of or implication from any Act or Acts, or any usage or custom to the contrary notwithstanding (a).

(a) See 35 Geo. 3, c. 101, s. 4; 59 Geo. 3, c. 50; 1 Will. 4, c. 18; and 4 & 5 Will. 4, c. 76, s. 66.

SETTLEMENT.—NATURE OF TENEMENT.

Decisions on sect. 2.

An entire tenement of 10*l.* per annum, though it lies in two parishes, gives a settlement in that where the occupier lives: *St. John's v. Amwell*, Str. 529.

A mill is a tenement, and renting one of 10*l.* per annum gains a settlement: *Evelin v. Rentcomb*, Salk. 536.

A right to common of pasture as a freeman does not amount to such an estate as to make a pauper irremovable: *Rex v. Warkworth*, 1 M. & S. 473.

Renting a certain number of lugs or perches of land, ready ploughed or manured for potatoes, at so much per lug, will confer a settlement: *Rex v. Cramore*, 2 M. & S. 132; *Rex v. Poulton-with-Fearnhead*, 6 M. & S. 252.

Where no estate either legal or equitable is acquired, a settlement will not be gained: *Rex v. Standon*, 2 M. & S. 461.

The value of a tenement in respect of acquiring a settlement is to be taken as of the time when the person comes to settle upon it: *Rex v. Ashton*, 6 M. & S. 54.

Where administration was not taken out, no settlement was acquired by estate which continued in the occupation of the daughter of the deceased: *Rex v. Canford Magna*, 6 M. & S. 355.

It is a question of fact for the sessions whether a widow, after administration granted to her husband's estate, continues a weekly tenant, or became one from year to year in her husband's right: *Rex v. Great Glen*, 5 B. & Ald. 188.

Under 6 Geo. 4, c. 57, no settlement is gained unless the rent for the term of one whole year, whatever be its amount, be actually paid: *Rex v. Ramsgate*, 6 B. & C. 712.

A man marrying a woman who was a yearly tenant of premises under the annual value of 10*l.*, was held to gain a settlement: *Rex v. Ynyscynhanarn*, 7 B. & C. 233.

In December, 1825, a house was hired at 21*l.* a year, the rent to be paid weekly, and either landlord or tenant to determine the tenancy at three months' notice from any quarter day. This was a renting of a tenement for one whole year, within 6 Geo. 4, c. 57: *Rex v. Hurstmonceaux*, 7 B. & C. 551.

SETTLEMENT—NATURE OF TENEMENT—*continued.*

Where a pauper had rented a tenement insufficient to confer a settlement under 6 Geo. 4, c. 57, s. 2, and in respect thereof had been rated and paid parochial taxes, but had not resided therein after such rating and payment forty days before that statute, he did not thereby acquire a settlement: *Rex v. Ringstead*, 7 B. & C. 607. *Decisions on sect. 2.*

Parol evidence of the fact of tenancy is admissible, although the tenant held under a written agreement: *Rex v. Holy Trinity*, 7 B. & C. 611.

Where a pauper *bonâ fide* hired a house and garden in A. for a year, at the rent of 10*l.*, and occupied it for a year, and the whole rent was paid to the landlord, but not by the pauper, a settlement was gained under 6 Geo. 4, c. 57: *Rex v. Kibworth Harcourt*, 7 B. & C. 790.

Since 6 Geo. 4, c. 57, in order to gain a settlement by settling upon a tenement, the reserved rent for one whole year must be paid, whatever be the amount: *Rex v. Ashley Hay*, 8 B. & C. 27.

Under 6 Geo. 4, c. 57, a pauper who rented a dwelling-house at a yearly value of 10*l.*, and resided in it, but underlet part, thereby gained a settlement: *Rex v. Ruthin*, 9 B. & C. 176.

A pauper who rented a dwelling-house at the yearly rent of 10*l.*, and resided in it, but underlet part, thereby gained a settlement under 6 Geo. 4, c. 57: *Rex v. Ditchest*, 9 B. & C. 176, 184.

A freeman who resided in a borough, and was in receipt of portion of the rents of the corporate estate assigned to him by the corporation, did not thereby gain a settlement by estate: *Rex v. Belford*, 10 B. & C. 54.

An estate in remainder will not confer a settlement. It must be vested in possession: *Rex v. Willoughby-with-Sloothby*, 10 B. & C. 62.

Under 6 Geo. 4, c. 57, a pauper who rented for a year a dwelling-house and land at a rent exceeding 10*l.* per annum, which was actually paid, but who underlet the land, gained a settlement: *Rex v. Great Bentley*, 10 B. & C. 520.

A person renting the tolls and residing in the toll-house of a navigation was within 54 Geo. 3, c. 170, s. 5, and did not gain a settlement: *Rex v. St. Andrew-the-Less, Cambridge*, 10 B. & C. 742.

Where a tenement is taken in lieu of wages, and not under an award according to agreement, no settlement is gained by estate: *Rex v. South Newton*, 10 B. & C. 838.

Where there is an adverse possession of land enclosed from the waste, a settlement will be gained by estate thereby: *Rex v. Wooburn*, 10 B. & C. 846.

A hired labourer was to have a house and garden of less value than 10*l.* a year as part of his wages; he had also the pasturage of a milk cow as well as the use of his master's cow, but such was no part of the contract; he gained no settlement: *Rex v. Langrville*, 10 B. & C. 899.

By 6 Geo. 4, c. 57, s. 2, a settlement by renting a tenement can only be acquired where the renting has been *bonâ fide* at 10*l.* a year, and such a renting can only appear by reference to the agreement with the landlord, and cannot be proved by parol where it was in writing and can be produced: *Rex v. Merthyr Tydvil*, 1 B. & Ad. 29.

A windmill not fixed to be freehold is not parcel of a tenement so as to be reckoned to make up the requisite annual value: *Rex v. Otley*, 1 B. & Ad. 161.

The land tax is a parochial rate within the meaning of 6 Geo. 4, c. 57; and therefore no settlement can be gained by payment of that tax in respect of a tenement above the yearly value of 10*l.*, unless all the things required by that statute as to the taking, payment of rent, &c., have been done: *Rex v. East Teignmouth*, 1 B. & Ad. 244.

SETTLEMENT—NATURE OF TENEMENT—*continued*.

*Decisions on
sect. 2.*

A fraudulent payment of rent by parish officers for a pauper in another parish will not gain a settlement: *Rex v. St. Sepulchre, Cambridge*, 1 B. & Ad. 924.

A tenement, consisting of a dwelling-house and 32 acres of land, was, since 6 Geo. 4, c. 57, hired and occupied for a year at an annual rent of 20*l.* and a year's rent paid; 27 acres were in township N., and 5 acres in township P. Held, that evidence was admissible to show how much of the entire annual rent of 20*l.* was paid in respect of the land in N.: *Rex v. Pickering*, 2 B. & Ad. 267.

If a tenement, by contract with the landlord, is to be made at his expense worth 10*l.* a year, it will be of that value within 14 Car. 2, c. 12, although the improvements are not completed at the time the pauper enters upon the premises: *Rex v. Huntsham*, 2 B. & Ad. 503.

Pauper on 1st Nov. 1813, came to reside on a tenement of the yearly value of 10*l.* The bargain with the owner was that he should live a month in it for nothing, on trial. He did so, and then took it at the rent agreed upon, and, without any interruption in the residence, continued on it for the following month; he thereby gained a settlement: *Rex v. Helsham*, 2 B. & Ad. 620.

Though there be two tenements in the occupation of the pauper, in one of which his servant dwelt, he will acquire a settlement by renting a tenement consisting of a distinct building, in which he himself resided: *Rex v. Macclesfield*, 2 B. & Ad. 870.

A man marrying a woman who, after the passing of 59 Geo. 3, c. 50, has become a yearly tenant of premises at a rent of less than 10*l.* per annum, gains a settlement by forty days' residence thereon: *Rex v. North Cerney*, 3 B. & Ad. 463.

A real estate was devised to A. B., who, on the death of the testator, was 16 years old. Her father, considering himself her guardian, resided with her on the estate. Held, that as the estate came to the daughter by devise and not by descent, and she was above 14 years of age, the father was not a guardian in soccage, but natural guardian only, and that, as such, having no interest in the land, he gained no settlement by residing on it: *Rex v. Sherrington*, 3 B. & Ad. 714.

Pauper in November, 1827, took a dwelling-house of A., at an annual rent of 6*l.* 10*s.* In May, 1828, he took a building, used as a shed, of B., in the same parish, but at an annual rent of 5*l.*, and occupied both till September, 1830, and paid the rents. He gained a settlement under 6 Geo. 4, c. 57: *Rex v. Tadcaster*, 4 B. & Ad. 703.

Where a cottage was entered upon at May day, 1827, and held till May day, 1828, and the rent paid, that was a sufficient occupation to gain a settlement under 6 Geo. 4, c. 57: *Rex v. Ormsby*, 4 B. & Ad. 214.

Where a demise is joint, a settlement will not be gained by either tenant if the rent as regards the share of each be less than 10*l.*: *Rex v. Great Waking*, 5 B. & Ad. 971.

Pauper took a tenement on 21st May under an agreement, and did not actually take possession until June 4, but paid rent from the date of the agreement. Held, that he did not come to settle until June 4, and consequently that the settlement was not concluded by 59 Geo. 3, c. 50, although he afterwards resided there more than forty days: *Rex v. Brighthelmstone*, 1 D. & R. 313.

Pauper placed to take care of a house and garden till let, residing in an adjoining cottage, and receiving the profits of the garden as his remuneration, was only a servant, and did not come to settle within the meaning of 14 Car. 2, c. 12: *Rex v. Shipdham*, 3 D. & R. 384.

A devisee of copyhold was admitted after he had resided more than forty days on the copyhold; his son became emancipated after the expiration of

SETTLEMENT—NATURE OF TENEMENT—*continued.*

the forty days, but before the admittance. Held, that the father by such residence gained a settlement, which was communicated to the son: *Decisions on Thrucross*, 1 A. & E. 126.

A person rented two houses under one continuous roof, having distinct outer doors and no internal communication; he took the whole at one hiring, but paid distinct rents for them of 6*l.* each per annum; occupied one house himself, and allowed his son exclusive possession of the other. He thereby acquired a settlement under 6 Geo. 4, c. 57, s. 2: *Rex v. Iver*, 1 A. & E. 228; 3 L. J. M. C. 37; 3 N. & M. 28.

A settlement was gained under 6 Geo. 4, c. 57, by renting under distinct hirings of the same owner for the same year two dwelling-houses (one of which the tenant underlet, and never personally occupied), at the rents of 8*l.* and 5*l.* a year, in different parts of a parish: *Rex v. Wootton*, 1 A. & E. 232; 3 L. J. M. C. 98; 3 N. & M. 312.

Where there was no legal title to the estate, the person residing in the parish gained no settlement: *Rex v. Barnard Castle*, 2 A. & E. 108; *Rex v. Axbridge*, 2 A. & E. 520; *Rex v. Cregrina*, 2 A. & E. 536.

Payment of rent in arrear after an order of removal will complete a settlement by renting a tenement: *Rex v. Willoughby*, 4 A. & E. 143.

W. rented and occupied the middle floor of a house. Two outer doors, and some steps which gave access to that floor were appropriated to him exclusively. A separate flight of steps on the outside of the house led by a different outer door to a passage on the middle floor, from which passage a tenant, occupying the upper floor, reached his premises by a staircase of his own. One of W.'s rooms opened into this passage, and W. could not reach that room but by going up the last-mentioned steps, and along the passage, or by crossing the passage from his other rooms by a door in one of them, which was usually locked. All the last-mentioned rooms communicated with each other and with both the doors appropriated to W. Held, that the premises occupied by W. were "a separate and distinct dwelling-house" within 6 Geo. 4, c. 57, by renting which a settlement might be gained: *Rex v. Great and Little Usworth and North Biddick*, 5 A. & E. 261; 5 L. J. M. C. 139; 6 N. & M. 811.

Where on appeal against an order of removal the sessions found that the pauper had occupied a cottage as servant, and not as tenant, and had gained no settlement by such occupation, the court held that the sessions upon the facts were not necessarily wrong, and refused to disturb their finding: *Rex v. Snape*, 6 A. & E. 278; 6 L. J. M. C. 32; 1 N. & P. 429.

Under 6 Geo. 4, c. 57, and 1 Will. 4, c. 18, a settlement is not gained by renting a tenement unless the whole subject matter of the demise be occupied by the person hiring it: *Rex v. Berkswell*, 6 A. & E. 282; 6 L. J. M. C. 35; 1 N. & P. 432.

Since 1 Will. 4, c. 18, a settlement may still be acquired by payment of rates in respect of a tenement part of which is underlet, if the requirements of 6 Geo. 4, c. 57, s. 2, be fulfilled: *Rex v. Stoke Damerei*, 6 A. & E. 308.

If in proof of a settlement by renting a tenement under 6 Geo. 4, c. 57, a writing not under seal be produced demising land, and also professing to demise incorporeal property at an entire rent, evidence may be given to show how much of that rent the land is worth; and if the amount is 10*l.* a year, and the land has been occupied and the rent paid, the settlement is good: *Reg. v. Hockworthy*, 7 A. & E. 492; 7 L. J. M. C. 24; 2 N. & P. 383.

Under 6 Geo. 4, c. 57, s. 2, a settlement is acquired by renting a tenement for 10*l.* a year, though the landlord agrees to pay and does pay tithes to an amount which, if deducted from the rent, would reduce it below 10*l.*, and though it appear that the rent demanded would have been only 9*l.* if the landlord had not so agreed: *Reg. v. St. John-in-Bedwardine*, 8 A. & E. 192; 7 L. J. M. C. 64; 3 N. & P. 302.

SETTLEMENT—NATURE OF TENEMENT—*continued.*

*Decisions on
sect. 2.*

After 6 Geo. 4, c. 57, pauper hired a house at a yearly rent of '16*l.*, payable quarterly, the tenancy to be determinable at a quarter's notice. At the end of the first quarter his rent was reduced. He resided in the house until 26th September, when he removed to another house, keeping the key of the former, and leaving some trifling articles therein till the 5th October, when the tenancy expired. On 29th September a poor rate was made, allowed on 1st October, and published on 9th October. This rate the pauper had not paid, though he had paid others previously. Held, that he gained a settlement by payment of rates, there being a sufficient yearly living and occupation for a year to satisfy 6 Geo. 4, c. 57: *Reg. v. St. Mary Collender*, 8 L. J. M. C. 54; 1 P. & D. 497; 9 A. & E. 626.

A settlement cannot be gained under 6 Geo. 4, c. 57, by renting and occupying a tenement jointly with another person. Pauper rented a dwelling-house in B. at 7*l.* per annum, from the year 1828 to 1831 inclusive, and occupied it for one whole year at the least; he also rented and occupied a tenement jointly with another, in the same parish, at the rent of 15*l.* per annum, during all the time that he rented and occupied the dwelling-house. Held, that he did not gain a settlement under 6 Geo. 4, c. 57: *Reg. v. Caverswall*, 8 L. J. M. C. 57; 1 P. & D. 426; 10 A. & E. 270.

Pauper rented a cottage and premises, including a ferry, with the use of a boat and line across an adjoining river. The premises without the ferry were not worth 10*l.* a year. Held, that the ferry might be included, in order to make up the necessary value: *Reg. v. Fladbury*, 10 A. & E. 706.

A taking of a lease "for the term of six months, from the 1st January, and so on for six months to six months, until one of the parties shall give to the other six calendar months' notice in writing to determine the tenancy, at the rent of 13*l.* for six months, the first payment to be made on the 1st July," is a taking for the term of one whole year under 6 Geo. 4, c. 57: *Reg. v. Chawton*, 1 Q. B. 247; 10 L. J. M. C. 55.

1 Will. 4, c. 18, s. 2, applies to settlements as well by paying parochial rates as by renting tenements. Therefore, a pauper who hires and occupies a tenement, for a whole year in conformity, with 6 Geo. 4, c. 57, may gain a settlement by payment of rates, though he has not paid the whole of a year's rent, provided he has paid as much of it as amounts to 10*l.*: *Reg. v. Brighthelmstone*, 10 L. J. M. C. 93; 1 Q. B. 674.

There must be an equitable estate or right to confer a settlement: *Reg. v. St. Margaret, Leicester*, 11 L. J. M. C. 48; 2 Q. B. 559.

An examination, stating that pauper occupied a cottage and land belonging to A. B., in the appellant parish, at the yearly rent of 9*l.*, and a shop at the yearly rent of 1*l.* 11*s.* 6*d.*, all which premises he occupied for three years, paid the several rents as they became due, and resided the whole term in the cottage, does not show a renting at 10*l.* a year; and such an occupation under such yearly hiring within 6 Geo. 4, c. 57, s. 2, and will not sustain an order of removal: *Reg. v. Recorder of Pontefract*, 2 Q. B. 548; 12 L. J. M. C. 81.

No settlement by payment of rates under 6 Geo. 4, c. 57, can be gained if the landlord agree to pay the rates and pay them: *Reg. v. South Kilvington*, 5 Q. B. 216; 13 L. J. M. C. 3; 8 J. P. 38.

In 6 Geo. 4, c. 57, s. 2, the words "separate and distinct" apply to "dwelling-house and building," but not to land: *Reg. v. St. Lawrence*, 6 Q. B. 842; 14 L. J. M. C. 56; 9 J. P. 69; 1 N. S. C. 485.

A statement of ground of appeal will be insufficient if it do not state that two dwelling-houses relied upon as conferring the settlement were "separate and distinct," pursuant to the words of 6 Geo. 4, c. 57, s. 2: *Reg. v. Ripon*, 7 Q. B. 225; 14 L. J. M. C. 102; 9 J. P. 617.

SETTLEMENT—NATURE OF TENEMENT—*continued.*

A., in 1769, enclosed land from the waste, and built a cottage thereon, in which he resided 60 years. During the whole time a yearly rent of 2s. 6d. was paid by A. to the lord of the manor for the cottage, and on a further enclosure of land for a garden, the rent was increased to 3s. A. gained no settlement thereby: *Reg. v. Cuddington*, 14 L. J. M. C. 182. *Decisions on*
sect. 2.

On the trial of an appeal, it was proved that A., the pauper's father, hired from C., his master, a cow, which was kept in the pasture season on the pasture lands of C.'s farm, in the appellant parish, and in the winter season in the straw yard; that A. put the cow where there was feed for her, but nothing was said either by his master or himself as to the manner or on which particular lands the cow was to be fed. No settlement was gained thereby, as a contract could not be inferred as to the pasturage: *Reg. v. Mendham*, 16 L. J. M. C. 67.

T. A. and W. A., father and son, were joint tenants, for a year, of a farm, and of land separate from the farm, of sufficient value, and at a rent sufficient to confer a settlement on both. The son resided in the farmhouse; the father at another house five miles off. The farming stock on the land belonged to the son, who occupied for a whole year, from the time of entering upon the occupation. Three rates were made in the course of that year; in the first two the person assessed in respect of the farm and land was described as "W. A.," in the third he was described as "T. A." Held, that there was evidence for the sessions that W. A. had gained a settlement under 6 Geo. 4, c. 57, s. 2, by payment of rates: *Reg. v. Uthwaite*, 16 J. P. 696.

A legal title, coupled with an equitable interest, will confer a settlement by estate: *Reg. v. Burgate*, 23 L. J. M. C. 143.

The father of a pauper had gained a settlement in B. on the 6th April, 1837, by renting a tenement. He had also been the owner of a freehold estate in C. for some years before, and down to 1838, and it was admitted that on 27th April, 1837, he had resided and slept for more than forty days upon his estate in C. since the purchase of it, several days' residence, between the 6th and 27th April, 1837, being included in the computation of such forty days. Held, that the residence in C. had the effect of superseding the settlement gained in B., and of establishing a subsequent settlement in C.: *Reg. v. Knaresborough*, 20 L. J. M. C. 147; 4 N. S. C. 455.

To gain a settlement by payment of parochial rates, since the 6 Geo. 4, c. 57, s. 2, forty days' residence is not sufficient; there must also be an occupation for a year: *Reg. v. Westbury-on-Trym*, 28 L. T. 369; 7 E. & B. 444; 3 Jur. (N. S.) 690; 26 L. J. M. C. 76; 21 J. P. 613.

A pauper resided in a shop and two rooms on the ground floor; they opened into a passage, at the end of which was a front entrance into the street and a back entrance into the yard. The upper part of the house was occupied by another tenant, who had a right to the use of the passage and doors, and had a key thereof, and who claimed a portion of the passage. Held, that the pauper did not gain a settlement by renting a tenement within 6 Geo. 4, c. 57: *Reg. v. Elswick*, 3 L. T. (N. S.) 321; 24 J. P. (N.) 787; 7 Jur. (N. S.) 45; 30 L. J. M. C. 66.

By agreement, a tenement was let to a pauper "for three months, from the 25th December, 1859, at the yearly rent of 18l., the first monthly payment to be made on the 25th January," and "that three months' notice from either party to the other shall be a sufficient notice to quit, and the said (the pauper) agrees, upon receiving such notice, to give up quiet possession," &c. The pauper occupied under the agreement for about eighteen months from the 25th December, 1859, and paid some of the rates in respect of the same. Held, that he thereby gained a settlement: *Reg. v. Willesden*, 32 L. J. M. C. 109; 9 Jur. (N. S.) 874; *S. C. Willesden v. Paddington*, 27 J. P. 324; 7 L. T. (N. S.) 784; 3 B. & S. 593.

7 GEO. IV. CHAP. 64. :

AN ACT for improving the Administration of Criminal Justice in England.

[26th May, 1826.]

* * * * *

How property ordered for the use of the poor of parishes, &c. may be laid. (55 Geo. III. c. 157, s. 1.)

XVI. "And with respect to the property of parishes, townships, and hamlets;" Be it enacted, that in any indictment or information for any felony or misdemeanor committed in, upon, or with respect to any workhouse or poorhouse, or on or with respect to any goods or chattels whatsoever, provided for the use of the poor of any parish or parishes, township or townships, hamlet or hamlets, place or places, or to be used in any workhouse or poorhouse in or belonging to the same, or by the master or mistress of such workhouse or poorhouse, or by any workmen or servants employed therein, it shall be sufficient to state any such property to belong to the overseers of the poor for the time being of such parish or parishes, township or townships, hamlet or hamlets, place or places, and it shall not be necessary

SETTLEMENT—NATURE OF TENEMENT—continued.

Decisions on 6 Geo. IV. c. 57, s. 2.

In June, 1844, B. and W. rented and entered into possession of three acres of land, in order to sink a coal-pit, at a yearly rent of 135*l.* an acre for the coal, and 50*s.* an acre for the surface. The rent for the coal was not to commence till after the coal had been reached; and it was agreed that the first half year's rent should be paid six months after the coal was reached. The coal was reached in December, 1844, and in June, 1845, B. and W. paid half a year's rent for the coal and one year's rent for the land. In September, 1845, the pit fell in, and the coal and land were given up. From June, 1845, to September, 1845, B. rented a cottage in the same township, for 5*l.* 10*s.* a year, and occupied and paid the rent. Held, that no settlement was gained by B., as the rent of the tenements occupied by him did not amount to 10*l.* a year, for the year during which they were occupied: *Reg. v. Ardsley*, 32 L. J. M. C. 255; 9 Jur. (N. S.) 1287; S. C. *Reg. v. West Ardsley*, 4 B. & S. 95.

Where a pauper, on the 20th March, 1858, agreed to take a house from the 25th March, at the monthly rent of 1*l.* 16*s.* 8*d.*, and it was agreed that one month's notice, to expire either on the 25th March, 25th June, 25th September, or 25th December, should be a good and sufficient notice on either side for the pauper to quit and deliver up possession of the house, and the pauper occupied the house under the agreement up to Midsummer, 1860, and paid the rent and poor rates, he was held to have gained a settlement: *Reg. v. St. Giles-without-Cripplegate*, 33 L. J. M. C. 3; 10 Jur. (N. S.) 205; 27 J. P. 775.

Though a tenancy is terminable by a notice to quit within a year, yet if the terms of the hiring are such as to show that the parties contemplated that the tenancy would, unless the notice was given, endure for a year or more, and it does endure for a year, it will be sufficient (so far as the length of tenancy is concerned) to confer a settlement under 6 Geo. 4, c. 57: *Reg. v. Hastings*, 13 L. T. (N. S.) 362; 29 J. P. 773; 11 Jur. (N. S.) 977; 35 L. J. M. C. 65; S. C. *Hastings*, app. *Clerkenwell*, resp. 6 B. & S. 914.

to specify the names of all or any of such overseers; and in any indictment or information for any felony or misdemeanor committed on or with respect to any materials, tools, or implements provided for making, altering, or repairing any highway within any parish, township, hamlet, or place, otherwise than by the trustees or commissioners of any turnpike road, it shall be sufficient to aver that any such things are the property of the surveyor or surveyors of the highways for the time being of such parish, township, hamlet, or place, and it shall not be necessary to specify the name or names of any such surveyor or surveyors (a).

How materials, &c. for repairing highways may be laid.

* * * * *

XXII. "And with regard to the payment of the expenses of prosecutions for felony;" Be enacted, that the court before which any person shall be prosecuted or tried for any felony is hereby authorized and empowered, at the request of the prosecutor or of any other person, who shall appear on recognizance or subpoena to prosecute or give evidence against any person accused of any felony, to order payment unto the prosecutor of the costs and expenses which such prosecutor shall incur in preferring the indictment, and also payment to the prosecutor and witnesses for the prosecution, of such sums of money as to the court shall seem reasonable and sufficient to reimburse such prosecutor and witnesses for the expenses they shall have severally incurred in attending before the examining magistrate or magistrates and the grand jury, and in otherwise carrying on such prosecution, and also to compensate them for their trouble and loss of time therein; and, although no bill of indictment be preferred, it shall still be lawful for the court, where any person shall, in the opinion of the court, *bonâ fide* have attended the court in obedience to any such recognizance or subpoena, to order payment unto such person of such sum of money as to the court shall seem reasonable and sufficient to reimburse such person for the expenses which he or she shall have *bonâ fide* incurred by reason of attending before the examining magistrate or magistrates, and by reason of such recognizance or subpoena, and also to compensate such person for trouble and loss of time; and the amount of the expenses of attending before the examining magistrate or magistrates, and the compensation for trouble and loss of time therein, shall be ascertained by the certificate of such magistrate or magistrates, granted before the trial or attendance in court, if such magistrate or magistrates shall think fit to grant the same; and the amount of all the other expenses and compensation shall be ascertained by the proper officer of the court, subject nevertheless to the regulations to be established in the manner hereinafter mentioned (b).

Courts may order payment of expenses of prosecutions in all cases of felony. (58 Geo. III. c. 70, s. 4.)

Allowance to persons attending on recognizance, where no bill is preferred. (18 Geo. III. c. 19, s. 8.)

* * * * *

(a) See 55 Geo. 3, c. 137, s. 1. (b) See 34 & 35 Vict. c. 108, s. 7.

Order for
payment to be
made out by
clerk of assize,
&c., and paid
by county
treasurer.

(58 Geo. III.
c. 70, s. 6.
18 Geo. III.
c. 19, s. 8.)

XXIV. Every order for payment to any prosecutor or other person as aforesaid shall be forthwith made out and delivered by the proper officer of the court unto such prosecutor or other person, upon being paid for the same the sum of one shilling for the prosecutor and sixpence for each other person, and no more; and, except in the cases hereinafter provided for, shall be made upon the treasurer of the county, riding or division in which the offence shall have been committed, or shall be supposed to have been committed, who is hereby authorized and required, upon sight of every such order, forthwith to pay to the person named therein, or to any one duly authorized to receive the same on his or her behalf, the money in such order mentioned, and shall be allowed the same in his accounts.

How expenses
shall be paid
in places not
contributing
to the county
rate.

(58 Geo. III.
c. 70, ss. 9, 10.)

XXV. "And whereas felonies and such misdemeanors as are hereinbefore enumerated may be committed in liberties, franchises, cities, towns, and places which do not contribute to the payment of any county rate, some of which raise a rate in the nature of a county rate, and others have neither any such rate nor any fund applicable to similar purposes, and it is just that such liberties, franchises, cities, towns, and places, should be charged with all costs, expenses, and compensations ordered by virtue of this Act, in respect of felonies and such misdemeanors committed therein respectively:" Be it therefore enacted, that all sums directed to be paid by virtue of this Act, in respect of felonies and of such misdemeanors as aforesaid committed or supposed to have been committed in such liberties, franchises, cities, towns, and places, shall be paid out of the rate in the nature of a county rate, or out of any fund applicable to similar purposes, where there is such a rate or fund, by the treasurer or other officer having the collection or disbursement of such rate or fund; and where there is no such rate or fund in such liberties, franchises, cities, towns, or places, shall be paid out of the rate or fund for the relief of the poor of the parish, township, district, or precinct therein, where the offence was committed or supposed to have been committed, by the overseers or other officers having the collection or disbursement of such last-mentioned rate or fund; and the order of court shall in every such case be directed to such treasurer, overseers, or other officers respectively, instead of the treasurer of the county, riding, or division, as the case may require.

* * * * *

7 & 8 GEO. IV. CHAP. 17.

AN ACT to extend the Provisions of an Act made in the fifty-seventh Year of King George the Third, for regulating the Costs of certain Distresses. [28th May, 1827.]

“ WHEREAS by an Act passed in the fifty-seventh year of the reign of his late Majesty King George the Third, intituled ‘ An Act to regulate the Costs of Distresses levied for Payment of small Rents,’ certain regulations are made with respect to the costs and charges of levying and disposing of such distresses where the sum demanded and due shall not exceed twenty pounds: And whereas it is expedient that the said Act should be amended, by extending the same to distresses for other causes:” Be it therefore enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this Act, all the rules, regulations, clauses, provisions, penalties, matters, and things in the said Act contained, shall extend and be construed to extend, and shall be applied and put in execution, so far as the same are applicable and capable of being put in execution, with respect to any distress or levy which shall be made for any land tax, assessed taxes, poor rates, church rates, tithes, highway rates, sewer rates, or any other rates, taxes, impositions, or assessments whatsoever, in all cases where the sum demanded and due for or in respect of such taxes, rates, tithes, assessments, or impositions shall not exceed the sum of twenty pounds, and in all cases where the whole of the several sums sought to be levied by distresses taken for different purposes at the same time, shall not exceed the sum of twenty pounds; and that such costs and charges, and no other, shall be taken and payable as the costs and charges of the levy and disposition of such distresses; and that all such proceedings shall and may be had and taken against any and every person transgressing the regulations of the said Act, in the levying or distraining for any such taxes, rates, impositions, or assessments, and all such persons shall be liable to and shall incur such and the like penalties, as by the said Act are directed, required, and imposed with respect to persons making any distress for rent contrary to the directions of the said Act; and that in any order or judgment of any justices before whom any complaint shall be preferred in consequence of this Act, such order shall be expressed to be made upon a complaint for the breach of the said recited Act as amended by this Act; and that the said recited Act and this Act shall be taken and construed together as one Act, to all intents and purposes whatsoever (a).

57 Geo. III.
c. 93.

Provisions of
recited Act
extended to
distresses for
taxes, rates,
tithes, &c.

(a) See 43 Eliz. c. 2, s. 2; 17 s. 12; 5 & 6 Will. 4, c. 50, s. 34; Geo. 2, c. 38, s. 7; 54 Geo. 3, c. 170, and 12 & 13 Vict. c. 14.

7 & 8 GEO. IV. CHAP. 31.

AN ACT for consolidating and amending the Laws in England relative to Remedies against the Hundred (a).

[21st June, 1827.]

“WHEREAS it is expedient that the several statutes now in force in that part of the United Kingdom called England relative to remedies against the hundred for the damage occasioned by persons riotously and tumultuously assembled, should be amended, and consolidated into one Act; and with that view the said statutes are, by an Act of the present session of parliament, repealed, from and after the last day of June in the present year, except as to offences and other matters committed or done before or upon that day;” Be it therefore enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that this Act shall commence on the first day of July in the present year.

Commence-
ment of Act.

The hundred shall make full compensation for the damage done by rioters in certain cases.

II. If any church or chapel, or any chapel for the religious worship of persons dissenting from the united church of England and Ireland, duly registered or recorded, or any house, stable, coach-house, out-house, warehouse, office, shop, mill, malthouse, hop oast, barn, or granary, or any building or erection used in carrying on any trade or manufacture, or branch thereof, or any machinery, whether fixed or movable, prepared for or employed in any manufacture, or in any branch thereof, or any steam-engine or other engine for sinking, draining, or working any mine, or any staith, building, or erection used in conducting the business of any mine, or any bridge, waggon-way or trunk for conveying minerals from any mine shall be feloniously demolished, pulled down, or destroyed, wholly or in part, by any persons riotously and tumultuously assembled together, in every such case the inhabitants of the hundred, wapentake, ward, or other district in the nature of a hundred, by whatever name it shall be denominated, in which any of the said offences shall be committed, shall be liable to yield full compensation to the person or persons damnified by the offence, not only for the damage so done to any of the subjects hereinbefore enumerated, but also for any damage which may at the same time be done by any such offenders to any fixture, furniture, or goods whatever, in any such church, chapel, house, or other of the buildings or erections aforesaid.

III. Provided always, that no action or summary proceeding, as hereinafter mentioned, shall be maintained by virtue of this Act, for the damage caused by any of the said offences, unless the person or persons damnified, or such of them as shall have knowledge of the circumstances of the offence, or the servant or servants, who had the care of the property damaged, shall within seven days after the commission of the offence, go before some justice of the peace residing near and having jurisdiction over the place where the offence shall have been committed, and shall state upon oath before such justice the names of the offenders if known, and shall submit to the examination of such justice touching the circumstances of the offence, and become bound by recognizance before him to prosecute the offenders when apprehended: Provided also, that no person shall be enabled to bring any such action, unless he shall commence the same within three calendar months after the commission of the offence.

Party damnified to comply with certain conditions.

Limitation of time for actions.

IV. No process for appearance in any action to be brought by virtue of this Act against any hundred or other like district shall be served on any inhabitant thereof, except on the high constable (*b*) or some one of the high constables (if there be more than one), who shall within seven days after such service give notice thereof to two justices of the peace of the county, riding, or division, in which such hundred or district shall be situate, residing in or acting for the hundred or district; and such high constable is hereby empowered to cause to be entered an appearance in the said action, and also to defend the same on behalf of the inhabitants of the hundred or district, as he shall be advised; or, instead of defending the same, it shall be lawful for him, with the consent and approbation of such justices, to suffer judgment to go by default; and the person upon whom, as high constable, the process in the action shall be served, shall, notwithstanding the expiration of his office, continue to act for all the purposes of this Act until the termination of all proceedings in and consequent upon such action; but if such person shall die before such termination, the succeeding high constable shall act in his stead.

Process in the action against the hundred to be served on the high constable, who may defend, or let judgment go by default, as advised.

V. In any action to be brought by virtue of this Act against the inhabitants of any hundred or other like district, or against the inhabitants of any county of a city or town, or of any such liberty, franchise, city, town, or place, as is hereinafter mentioned, no inhabitant thereof shall, by reason of any interest arising from such inhabitancy, be exempted or precluded from giving evidence either for the plaintiff or for the defendants.

Inhabitants of the hundred competent witnesses.

VI. Wherever the plaintiff in any such action shall recover judgment, whether after verdict or by default or otherwise, no

If plaintiff recovers, the sheriff on

(*b*) See 32 & 33 Vict. c. 47.

receipt of the writ of execution, shall make out a warrant directing the treasurer of the county to pay the amount.

writ of execution shall be executed on any inhabitant of the hundred or other like district, nor on such high constable; but the sheriff, upon the receipt of the writ of execution, shall (on payment of the fee of five shillings, and no more) make his warrant to the treasurer of the county, riding, or division in which such hundred or other like district shall be situate, commanding him to pay to the plaintiff the sum by the said writ directed to be levied, and such treasurer is hereby required to pay the same, as also any other sum ordered to be paid by him by virtue of this Act, out of any public money which shall then be in his hands, or shall come into his hands before the next general or quarter sessions of the peace for the said county, riding, or division; and if there be not sufficient money for that purpose before such sessions, he shall give notice thereof to the justices of the peace at such sessions, who shall proceed in the manner hereinafter mentioned.

Mode of reimbursing the high constable for his expenses in defending the action, &c.

VII. And, for the purpose of indemnifying the high constable (a) and the county treasurer, be it enacted, that if such high constable of the hundred or other district sued shall produce and prove before any two justices of the peace of the county, riding, or division, residing in or acting for such hundred or district, an account of the just and necessary expenses which he shall have incurred in consequence of any such action as aforesaid, such justices shall make an order for the payment thereof upon the treasurer of the county, riding, or division in which such hundred or district shall be situate, and if in any such action judgment shall be given against the plaintiff, the high constable shall in like manner be reimbursed for the just and necessary expenses by him incurred in consequence of such action over and above the taxed costs to be paid by the plaintiff in such case; and if it shall be proved to any two such justices that the plaintiff in the action is insolvent, so that the high constable can have no relief as to such taxed costs, such justice shall make an order upon the treasurer of the county, riding, or division as aforesaid for the payment of the amount of such taxed costs; and the justices of the peace at the next general or quarter sessions of the peace to be holden for any such county, riding, or division, or any adjournment thereof, shall direct such sum or sums of money as shall have been paid or ordered to be paid by the treasurer by virtue of any such warrant or order as hereinbefore mentioned, to be raised on the hundred or other like district against the inhabitants of which any such action shall have been brought, over and above the general rate to be paid by such hundred or district in common with the rest of the county, riding, or division, under the Acts relating to county rates; and such sum or sums shall be raised in the manner directed by those Acts, and shall be forthwith paid over to the treasurer.

Reimbursing the county treasurer.

(a) See 32 & 33 Vict. c. 47.

VIII. "And whereas it is expedient to provide a summary mode of proceeding where the damage is of small amount;" Be it therefore enacted, that it shall not be lawful for any person to commence any action against the inhabitants of any hundred or other like district, where the damage alleged to have been sustained by reason of any of the offences in this Act mentioned shall not exceed the sum of thirty pounds, but the party damaged shall, within seven days after the commission of the offence, give a notice in writing of his claim for compensation, according to the form in the schedule hereunto annexed, to the high constable or some one of the high constables (if there be more than one) of the hundred or other like district in which the offence shall have been committed; and such high constable shall, within seven days after the receipt of the notice, exhibit the same to some two justices of the peace of the county, riding, or division in which such hundred or district shall be situate, residing in or acting for such hundred or district, and they shall thereupon appoint a special petty session of all the justices of the peace of the county, riding, or division, acting for such hundred or district, to be holden within not less than twenty nor more than thirty days next after the exhibition of such notice, for the purpose of hearing and determining any claim which may be then and there brought before them on account of any such damage; and such high constable (a) shall, within three days after such appointment, give notice in writing to the claimant, of the day and hour and place appointed for holding such petty session, and shall within ten days give the like notice to all the justices acting for such hundred or district; and the claimant is hereby required to cause a notice in writing in the form in the schedule hereunto annexed, to be placed on the church or chapel door, or other conspicuous part of the parish, township, or place in which such damage shall have been sustained, on two Sundays preceding the day of holding such petty session.

Mode of proceeding in cases where the damage does not exceed 30*l*.

IX. It shall be lawful for the justices, not being less than two, at such petty session or any adjournment thereof, to hear and examine upon oath or affirmation the claimant, and any of the inhabitants of the hundred or other like district, and their several witnesses, concerning any such offence, and the damage sustained thereby; and thereupon the said justices, or the major part of them, if they shall find that the claimant has sustained any damage by means of any such offence, shall make an order for payment of the amount of such damage to him, together with his reasonable costs and charges, and also an order for payment of the costs and charges (if any) of the high constable or inhabitants, and shall direct such order or orders to the treasurer of the county, riding, or division in which such hundred or district shall be situate, who shall pay the same to the party or parties therein named, and shall be reimbursed for the same in the manner hereinbefore directed.

Such cases to be settled by the justices at a special petty sessions.

(a) See 32 & 33 Vict. c. 47.

Penalty on
high constable
for neglect.

X. If any high constable (*a*) shall refuse or neglect to exhibit or give such notice as is required in any of the cases aforesaid, it shall be lawful for the party damnified to sue him for the amount of the damage sustained, such amount to be recovered by an action on the case, together with full costs of suit.

Proceeding
in case of
damage to a
church or
chapel.

XI. Every action or summary claim to recover compensation for the damage caused to any church or chapel by any of the offences in this Act mentioned, shall be brought in the name of the rector, vicar, or curate of such church or chapel, or in case there be no rector, vicar, or curate, then in the names of the church or chapelwardens, if there be any such, and if not, in the name or names of any one or more of the persons in whom the property of such chapel may be vested; and the amount recovered in any such case shall be applied in the rebuilding or repairing such church or chapel; and where any of the offences in this Act mentioned shall be committed on any property belonging to a body corporate, such body may recover compensation against the hundred or other like district, in the same manner and subject to the same conditions as any person damnified is by this Act enabled to do: Provided always, that the several conditions which are hereinbefore required to be performed by or on behalf of any person damnified, may, in the case of a body corporate, be performed by any officer of such body on behalf thereof.

In case of
property be-
longing to a
corporation.

Where the
damage is
committed in
any county of
a city, &c.
or in any
liberty, &c.
which is not
within any
hundred, or
does not con-
tribute to the
county rate,
such county,
liberty, &c.
shall be liable
like the
hundred.

XII. "And whereas the offences for which compensation is granted by virtue of this Act may be committed in counties of cities and towns, or in such liberties, franchises, cities, towns, and places, as either do not contribute at all to the payment of any county rate, or contribute thereto, but not as being part of any hundred or other like district; and it is expedient to provide for all such cases;" Be it therefore enacted, that where any of the offences in this Act mentioned shall be committed in a county of a city or town, or in any such liberty, franchise, city, town, or place, the inhabitants thereof shall be liable to yield compensation in the same manner, and under the same conditions and restrictions in all respects, as the inhabitants of the hundred; and everything in this Act in anywise relating to a hundred, or to the inhabitants thereof, shall equally apply to every county of a city or town, and to every such liberty, franchise, city, town, and place, and to the inhabitants thereof; and where the justices of the peace of the county, riding, or division are excluded from holding jurisdiction in any such liberty, franchise, city, town, or place, in every such case all the powers, authorities, and duties by this Act given to or imposed on such justices, shall be exercised and performed by the justices of the peace of the liberty, franchise, city, town, or place, in

(*a*) See 32 & 33 Vict. c. 47.

which the offence shall be committed ; and where the offence shall be committed in a county of a city or town, all the like powers, authorities, and duties, shall be exercised and performed by the justices of the peace of such county of a city or town ; and in every action to be brought, or summary claim to be preferred under this Act against the inhabitants of a county of a city or town, or of any such liberty, franchise, city, town, or place, the process for appearance in the action, and the notice required in the case of the claim, shall be served upon some one peace officer of such county, liberty, franchise, city, town, or place ; and all matters which by this Act the high constable of a hundred is authorized or required to do in either of such cases, shall be done by the peace officer so served, who shall have the same powers, rights, and remedies as such high constable has by virtue of this Act, and shall be subject to the same liabilities ; and shall, notwithstanding the expiration of his office, continue to act for all the purposes of this Act until the termination of all proceedings in and consequent upon such action or claim ; but if he shall die before such termination, his successor shall act in his stead.

XIII. And, for securing the due execution of writs in the cinque ports, and in places where writs are directed to other officers than the sheriff, and in liberties where the sheriff is not warranted in executing writs, be it enacted, that all other such officers to whom any writ of execution under this Act shall be directed, by whatsoever name they shall be known, shall have the same power of granting a warrant for payment of the sum by such writ directed to be levied as is hereby given to the sheriff in case of a writ of execution directed to him ; and that every sheriff and other such officer as aforesaid shall have authority to grant his warrant under this Act, notwithstanding the offence shall have been committed in, or to the treasurer or other person to whom such warrant shall be directed shall reside or be in, any liberty where the sheriff or officer is not warranted in executing writs.

Provision for
executing
writs in cer-
tain places.

XIV. And as to the mode of payment and reimbursement under this Act in such liberties, franchises, cities, towns, and places, as contribute to the payment of the county rate, but not as being part of any hundred, be it enacted, that the warrant of the sheriff or other officer upon any writ of execution against the inhabitants of any such liberty, franchise, city, town, or place, and every order of justices for payment to the party damnified therein, or to the peace officer or inhabitants thereof, by virtue of this Act, shall be directed to the treasurer of the county, riding, or division in which such liberty, franchise, city, town, or place shall be situate, who is hereby required to pay the same ; and the justices of the peace of such county, riding, or division, at their next general or quarter sessions of the peace,

Mode of reim-
bursement in
liberties,
cities, and
towns not
within any
hundred, but
contributing
to the county
rate.

or any adjournment thereof, shall direct such sum or sums of money as shall have been so paid, or ordered to be paid by the treasurer to be raised on such liberty, franchise, city, town, or place, over and above the general rate to be paid by the same in common with the rest of the county, riding, or division, under the Acts relating to county rates, and such sum or sums shall be raised in the manner directed by those Acts, and shall be forthwith paid over to the treasurer.

Mode of reimbursement in counties of cities, and in liberties, cities, and towns not contributing to any county rate.

XV. And as to the mode of payment and reimbursement under this Act in counties of cities and towns, and in such liberties, franchises, cities, towns, and places as do not contribute to the payment of the general county rate, be it enacted, that all sums of money payable either by virtue of any warrant of the sheriff or other officer, or of any order or orders arising out of any action or summary claim against the inhabitants of any county of a city or town, or of any such liberty, franchise, city, town, or place, shall be paid out of the rate (if any) in the nature of a county rate, or out of any fund applicable to similar purposes, where there is such a rate or fund therein, by the treasurer or other officer having the collection or disbursement of such rate or fund; and where there is no such rate or fund in such county, liberty, franchise, city, town, or place, the same shall be paid out of the rate or fund for the relief of the poor of the particular parish, township, district, or precinct therein, where the offence was committed, by the overseers or other officers having the collection or disbursement of such last-mentioned rate or fund; and in every such case the warrant and orders shall be directed and delivered to such treasurer, overseers, or other officers respectively, instead of the treasurer of the county, riding, or division, as the case may require.

This Act not to extend to Scotland or Ireland.

XVI. Provided always, that nothing herein contained shall extend to Scotland or Ireland.

SCHEDULE.

FORM OF NOTICE to the High Constable (a) of a Hundred or other like District, or to the Peace Officer of a County of a City or Town, or of a Liberty, Franchise, City, Town, or Place.

To the High Constable [or to one of the High Constables]
of, &c. [or to a Peace Officer of, &c.]

I HEREBY give you notice, that I intend to claim compensation from the inhabitants of [*here specify the hundred or other like district, or county of a city, &c., or liberty, franchise, &c., as the case may be*], on account of the damage which I have sustained by means [*here state the offence, the time and place where it was committed, and the nature and amount of the damage*];

(a) See 32 & 33 Vict. c. 47.

and I hereby require you, within seven days after your receipt of this notice, to exhibit the same to some two justices of the peace of the county [riding or division] of ——— residing in or acting for the said hundred, &c. [or if in a liberty, franchise, &c. where the justices of the county, riding, or division have no jurisdiction, then say, to some two justices of the peace of, naming the liberty, franchise, &c.], [or if in a county of a city, &c. then say, to some two justices of the peace of, naming the county of the city, &c.], in order that they may appoint a time and place for holding a special petty session to hear and determine my claim for compensation by virtue of an Act passed in the seventh and eighth years of the reign of King George the Fourth, intituled *An Act for consolidating and amending the Laws in England relative to Remedies against the Hundred*; and you are required to give me notice of the day, hour, and place appointed for holding such petty session within three days after the justices shall have appointed the same. Given under my hand this ——— day of ——— in the year of our Lord ———.

(Signed) *A. B.*

FORM OF NOTICE to be placed on the church or chapel door or other conspicuous part of the parish, township, or place, *(as the case may be)*.

I HEREBY give notice, that I shall apply for compensation to the justices of the peace at a special petty sessions to be holden at — on the — day of — next, at the hour of — in the forenoon, on account of the damage which I have sustained by means of *[here state the offence, the time and place where it was committed, and the nature and amount of the damage, in the same manner as in the preceding form.]* Given under my hand this — day of — in the year of our Lord —.

(Signed) *A. B.*

7 & 8 GEO. IV. CHAP. 53.

AN ACT to consolidate and amend the Laws relating to the
Collection and Management of the Revenue of Excise
throughout Great Britain and Ireland.

[2nd July, 1827.]

* * * * *

XI. No commissioner or assistant commissioner of excise, or Commissioner of excise, or person employed in the collection or management of or accounting for the revenue of excise, or any part thereof, shall, during the time of his acting as such commissioner and officers of excise exempted from serving

in any public
office, or in
the militia.

sioner or assistant commissioner or officer, or being so employed as aforesaid, be compelled to serve as a mayor or sheriff, or in any corporate or parochial or other public office or employment, or to serve on any jury (a) or inquest, or in the militia; any law, usage, or custom to the contrary thereof notwithstanding (b).

* * * * *

9 GEO. IV. CHAP. 43.

AN ACT for the better Regulation of Divisions in the several
Counties of England and Wales (c).

[15th July, 1828.]

“WHEREAS by divers Acts now in force it is enacted, that certain matters and things, in the same respectively mentioned, shall be transacted and determined within the divisions or limits within which the same shall arise, or the parties therein concerned inhabit or exercise their trade or calling, and by or before one, two, or more justices of the peace dwelling within or near to, or usually acting within, such divisions or limits respectively: And whereas the boundaries of such divisions or limits are in some instances uncertain, and in many have become inconvenient to the inhabitants within the same, from the change or increase of trade or population, or from other causes. And whereas doubts have arisen as to the authority by which such divisions or limits may from time to time be constituted, defined, or altered; and it is expedient that such doubts should be removed, and due provision made for the constituting, defining, and regulating from time to time such divisions or limits, as the convenience of the inhabitants within the same may require;” Be it therefore enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that at any time or times after the Michaelmas quarter sessions next following the passing of this Act, it shall be lawful for any two or more justices of the peace for any county, riding, or division, in England or Wales, having a separate commission of the peace, to transmit to the clerk of the peace a statement in writing, signed by such justices, of the parishes, tithings, townships, and places within the same, which in the opinion of such justices, would form together a convenient and a proper division within and for which special sessions should thenceforward be held; or of any parishes, tithings, townships, or places, which, in the opinion of such justices, ought to be annexed, for the same purposes,

Justices to forward to the clerk of the peace a statement of the townships, places, &c. that would form a proper division for which special sessions should be held.

(a) See 33 & 34 Vict. c. 77, Sch. (c) See 10 Geo. 4, c. 46; 6 Will.
(b) See 16 & 17 Vict. c. 59, s. 17. 4, c. 12; and 22 & 23 Vict. c. 32.

to any other division in the said county than those or that of which at the time of making such statement they form part ; and that every such statement shall, among other things, set forth within what existing divisions or division, limits or limit, the several parishes, tithings, townships, and places enumerated in the same, are situated or deemed to be ; and also whether one or more and what existing divisions or limits will be altered by such proposed new divisions, or by the change of any place or places from one division to another ; and also the names of such justices of the peace as at the date of such statement are usually resident or acting as such within the boundaries of such proposed new division.

II. At the quarter sessions next following the receipt of every such statement, setting forth such particulars as are above enumerated, and not otherwise, the clerk of the peace shall and he is hereby required to lay the same before such justices of the peace in such sessions assembled ; and the justices of the peace for such county, riding, or division, having such separate commission of the peace, shall and they are hereby required (except in the cases hereinafter provided for) to proceed, at the quarter sessions next following the laying of such statement before them as aforesaid, to the consideration thereof, and at their discretion to adopt the same wholly or in part, or to reject the same altogether, or to adjourn their determination thereupon to the next or any succeeding quarter sessions (d).

Statement to be laid before the justices at the next quarter sessions, who are to adopt or reject the same.

III. Immediately after the quarter sessions at which such statement shall have been first laid before the justices of the peace, the clerk of the peace shall cause to be published a copy of such statement in three successive numbers of one or more weekly newspapers usually published or circulated within the same county, riding, or division, and in which the advertisements of county business are usually inserted ; and at the foot of such copy shall also cause notice to be given that such statement has been laid before such justices in pursuance of the directions of this Act, and that the same will be taken into consideration by the court at the then next ensuing quarter sessions.

Clerk of the peace to advertise statement and other particulars in the newspapers.

IV. When and so often as the justices of the peace of any such county, riding, or division, having a separate commission of the peace, shall adopt wholly or in part any such statement so laid before them, and shall determine to change any parish, tithing, township, or place, from one division to another, or to constitute any new division, within which special sessions shall thenceforward be holden, the said justices of the peace shall thereupon make an order for such alteration, or for the constituting and defining such new division, and in such last-mentioned order shall particularly enumerate the several parishes, tithings, townships, and places to be comprised within such new division, and shall also specify the division or divisions within

If justices approve, an order to be made for constituting a new division, and the clerk of the peace to publish the same.

which respectively any parishes, tithings, townships, and places, disannexed by such order from any former division, and not forming part of such new division, shall thenceforward be taken to be, and also shall affix to such new division the name of some principal and convenient parish, township, or place within the same, and also shall, in either of such orders, as the case may be, particularly set down the day from which such order shall take effect; and the clerk of the peace for such county, riding, or division, shall forthwith publish a copy of such order in three successive numbers of one or more such weekly newspapers as aforesaid, and shall transmit a copy of such order to every high constable within the limits of such new or altered division or divisions.

No new division to be constituted unless five justices at least shall be proved to be resident therein.

V. Provided always, that nothing in this Act shall be taken to authorize, and that it shall not be lawful for any justices in any court of quarter sessions to make any order constituting such new division, unless upon due proof before them made in open court upon oath, that for two years next before the making of such proof there have been, and at the time of making the same there are, at the least, five justices of the peace residing in or usually acting within the boundary line proposed to be the limits of any such new division.

New divisions to be deemed lawful divisions for holding special or petty sessions, or other meetings of justices.

VI. From and after the day so specified in such order, for the term of twenty-one years, and until further order of sessions after the expiration of that time, and subject to no alteration or revision during such term, except as hereinafter provided, all matters and things which by law are now or hereafter may be required to be, or which now are, usually transacted or determined within the division within which the same shall have arisen, or the parties therein concerned inhabit or exercise their trade or calling, and by or before one, two, or more justices of the peace dwelling or usually acting within the same, shall be transacted and determined, so far as the same matters and things arise within or concern the inhabitants of such new or altered division, or any of them, or the persons exercising their trade or calling therein, within the boundaries of such new or altered division; and such new or altered division shall thenceforward be, and be reputed and taken to be, for all purposes, and in the construction of all statutes now in force or hereafter to be made, and containing no special provision to the contrary, a lawful division for the holding of special sessions; and all bailiffs, constables, tithingmen, surveyors, overseers of the poor, and other officers, publicans, keepers of taverns, coffee houses, and victualling houses, and other persons, shall and they are hereby thenceforward required to give their attendance to and upon such justices of the peace at any time assembled in such special sessions, within the same division, as fully and effectually as by law they had been bound to do within any division reputed or taken before the passing of this Act to be a lawful and accustomed division of justices for the purposes aforesaid.

VII. Provided always, that at the quarter sessions next after Justices at the laying of any such statement before the justices in such sessions assembled, it shall and may be lawful for such justices, if they shall deem it expedient and proper, not to proceed to the single consideration of such statement, but instead thereof to cause to be made an enquiry and examination into the boundary lines, extent, and other local circumstances of all the existing and accustomed divisions for the holding of special sessions within the commission of such justices; and at such or any succeeding quarter sessions, to which the conclusion of such enquiry and examination may from time to time be adjourned, by order of sessions, to regulate, alter, new model, and subdivide all or any of such divisions, in such manner as shall appear to them proper and convenient, particularly specifying in such order the names of all such divisions, whether newly constituted, altered or unaltered, the several parishes, tithings, townships, and places to be comprised in each, and affixing or continuing to each the name of some principal and convenient parish, township or place, within the same (a).

VIII. The clerk of the peace for any county, riding, or division in which such order shall have been made as last aforesaid, shall forthwith publish a copy of the same in three successive numbers of one or more such weekly newspapers as aforesaid, and shall also forthwith transmit by the post, a copy of the same to the churchwardens and overseers of the poor of each parish within the said county, riding, or division, to be by them affixed on the principal door of the church of such parish; and at the foot of every such copy so published or transmitted shall add a notice specifying at what time such order will be enrolled as hereinafter provided, and at what time and in what manner any person or persons, or body corporate, aggrieved by such order may petition against the same, or any part thereof, as hereinafter provided.

IX. In every such order, some time, not earlier than the fourth quarter sessions next after the making thereof, shall be provisionally specified, on which the same shall be enrolled as hereinafter provided, subject to such alteration as may thereafter be made either in the particulars of the said order or in the time of its enrolment; and that at any court of quarter sessions preceding such time, it shall and may be lawful for any one or more person or persons, or body corporate, jointly or severally, to present a petition in writing to such court, against all or any part of such order, and to produce witnesses in support of such petition; and the justices at such court assembled shall and they are hereby required to hear and determine, in a summary way, the merits of such petition, and to amend such order so far as may, upon such hearing, appear proper and convenient: Provided always, that no such petition shall be received or examined into, unless after due proof that

sessions to cause inquiry into the extent of divisions, and alter the same, and affix names thereto.

Clerk of the peace to publish a copy of such order.

Order to specify time when it shall be enrolled.

Parties allowed to petition against such order.

a notice in writing, specifying the grounds thereof, which upon the hearing shall alone be enquired into, hath been served, ten clear days before the commencement of such sessions, upon one of the overseers of the poor, or the tithingman or constable, or two substantial housekeepers of the parish, tithing, township, or place respectively, as the case may be, wherein such petitioner or petitioners shall be resident at the time of presenting such petition, and also lodged, twenty clear days before such commencement, at the office of the clerk of the peace, who shall and he is hereby required forthwith to transmit a copy thereof to each of the justices usually acting within or for the district or places or place named in such notice.

Order to be enrolled as soon as petitions against the same have been determined, and shall not be subject to alteration for 10 years.

X. So soon as all such petitions against such order shall have been determined, and such amendments made therein as shall have appeared necessary or proper, the justices at such quarter sessions shall cause to be inserted therein some day not earlier than one month after such sessions from which the same shall take effect, and shall cause the same order to be enrolled, and the same shall remain an order of sessions, controlling any order or orders of sessions heretofore made for the separate constitution of any new divisions, or the partial alteration of any accustomed divisions, under the former provisions of this Act, and not subject itself to revocation or alteration of any kind for the space of ten years thence next ensuing; and during such ten years no such statement shall be received or proceedings had thereon as above-mentioned, but during all that time, and until further order of sessions after the expiration of that time, the several divisions, as limited, modelled, or constituted in and by such order, shall be and be taken to be, for all the purposes in this Act mentioned, the lawful divisions of such county, riding, or division, having such separate commission of the peace for the meetings of justices in special sessions, under any statute now in force, or hereafter to be made, and containing no special provision to the contrary; and all bailiffs, constables, tithingmen, surveyors, overseers of the poor, and other officers, publicans, keepers of taverns, coffee-houses, and victualling houses, and other persons, shall and they are hereby required thenceforward, during the time last above limited, to give their attendance to and upon the justices of the peace at any time assembled in such special sessions, within the same divisions respectively, as fully and effectually as by law they have been bound to do within any division reputed and taken before the passing of this Act to be a lawful and accustomed division for the meetings of justices for any of the purposes aforesaid.

Clerk of peace to publish copy of enrolment.

XI. Immediately after the enrolment of such order, the clerk of the peace shall and he is hereby required to cause to be published a copy of the same in three successive numbers of one or more such weekly newspapers as aforesaid, and shall also transmit one copy thereof to each justice of the peace dwelling within or usually acting within and for such county,

riding, or division, having such separate commission of the peace.

XII. No order to be made, nor any proceeding to be had or taken in pursuance of this Act, shall be quashed or vacated for want of form, or removed by *certiorari* or any other writ or process whatever, into any of His Majesty's courts of record at Westminster; any law or statute to the contrary notwithstanding.

Proceedings not to be quashed for want of form.

XIII. Nothing in this Act contained shall extend or be construed or taken to extend [*to the county of Middlesex in England,*] (a) or to Scotland or Ireland.

Not to extend to Middlesex, &c.

10 GEO. IV. CHAP. 44.

AN ACT for improving the Police in and near the Metropolis.
[19th June, 1829.]

* * * * *

XXIII. As soon as the police to be appointed under this Act shall take charge of any parish, township, precinct, or place, whether parochial or extra-parochial (b), within the metropolitan police district, it shall be lawful for the justices appointed under this Act, forthwith, and so from time to time, subject to the approbation of one of His Majesty's principal secretaries of state, to issue a warrant under their hands to the overseers of the poor of every such parish, township, precinct, or place; by which warrant they shall command the said overseers, out of the money collected for the relief of the poor in such parish, township, precinct, or place, to pay the amount mentioned in the warrant for the purposes of the police under this Act, or to levy such amount as a part of the rate for the relief of the poor in such parish, township, precinct, or place, and that the overseers shall pay over the amount mentioned in the warrant, to the receiver to be appointed under this Act, within forty days from the delivery of such warrant to any one of the overseers: Provided always, that the sum to be paid for the purposes of the police under this Act shall not exceed in the whole in any one year the rate of eightpence in the pound on the full and fair annual value of all property rateable for the relief of the poor within such parish, township, precinct, or place, such full and fair annual value to be computed according to the last valuation for the time being acted upon in assessing the county rate.

The overseers in every parish, &c. in the metropolitan district shall be ordered to levy a police rate upon all persons liable to the poor rate.

Not to exceed 8d. in the pound in any one year, according to the valuation for county rate.

(a) The exemption of the county of Middlesex from this Act is repealed by 14 & 15 Vict. c. 55, s. 17. See also 6 & 7 Will. 4, c. 12, s. 6.
(b) See 20 Vict. c. 19, s. 1.

Who to be
deemed over-
seers within
this Act.

Overseers
shall collect
the police
rate in the
same manner
as the poor
rate.

Overseers on
non-payment
of the police
rate, shall be
distrained
upon ;

and in default
of sufficient
distress, the
arrears may
be re-levied
on the parish.
In case of de-
fault, &c.
occasional
overseers may
be appointed
for levying
the police
rate.

rate ; and that the warrant shall specify the rate in the pound at which the sum mentioned therein shall be computed (a).

XXIV. Where any persons other than the overseers of the poor shall, by virtue of any office or appointment, be authorized and required to make and collect or cause to be collected the rate for the relief of the poor in any parish, township, precinct, or place within the metropolitan police district, such persons, by whatsoever title they may be called, shall be deemed to be overseers of the poor within the meaning of this Act, and to be included under and denoted by the words " overseers of the poor," for all the purposes of this Act, as fully as if they were commonly called or known by the title of overseers of the poor.

XXV. The overseers of the poor of every parish, township, precinct, or place within the metropolitan police district, to whom any such warrant as aforesaid shall be issued, shall pay the amount mentioned in the warrant out of any money in their hands collected for the relief of the poor ; and if there be no such money in their hands, or an insufficient sum, they shall levy the amount required as a part of the rate for the relief of the poor, and shall for that purpose proceed in the same manner, and have the same powers, remedies, and privileges as for levying money for the relief of the poor (b) ;

* * * * *

XXVI. In case the amount ordered by such warrant as aforesaid to be paid by the overseers in any parish, township, precinct, or place, in the metropolitan police district, shall not be paid to the receiver within the time specified for that purpose in the warrant, the justices appointed under this Act, upon complaint thereof made to them by the receiver, may issue their warrant for levying the amount, or so much thereof as may be in arrear, by distress and sale of the goods of all or any of the said overseers ; and in case the goods of all the overseers shall not be sufficient to pay the same, the arrears thereof shall be added to the amount of the next levy which shall be directed to be made in such parish, township, precinct, or place for the purposes of the police under this Act, and shall be collected by the like methods ; and the said justices, in case of any default or neglect of any overseer or overseers, or in any other case in which one of His Majesty's principal secretaries of state shall so direct, may appoint two or more persons to act as overseers of the poor within any parish, township, precinct, or place in the metropolitan police district, for levying the money for the purposes of the police under this Act ; and the persons so appointed shall proceed in the same manner, and shall have the same powers, remedies, and privileges, and shall be subject to the same regulations and penalties, with reference to the levying of such money, as if they had been appointed

(a) See 32 & 33 Vict. c. 67, s. 45. 24 & 25 Vict. c. 124, ss. 7, 8 ; and
(b) See 2 & 3 Vict. c. 71, s. 18 ; 32 & 33 Vict. c. 67, s. 45.

overseers of the poor by virtue of any law or laws now in force.

XXVII. Where any messuages, lands, tenements, or hereditaments within the metropolitan police district shall be occupied by any ambassador, agent, or other public minister of any foreign prince or state, or by the servant of any such ambassador, agent, or minister, or by any other person not liable by law to the payment of the poor's rate, all such money as would by virtue of this Act have been payable for the purposes of the police by the occupier of such messuages, lands, tenements, or hereditaments, if such occupier had been rateable to the relief of the poor, shall in such case be paid by and recoverable from the landlord or owner thereof, who shall for this purpose be deemed the occupier thereof, and shall be liable to all such proceedings for non-payment of such money as any person is by law liable to for non-payment of poor rate.

In property occupied by ambassadors, the landlord shall pay the police rate.

XXVIII. Any justice appointed under this Act, or any person having an order for that purpose under the hand of any such justice, may inspect any county rate made or to be made for any county, any part of which shall be situate within the metropolitan police district, and may also inspect any returns concerning all or any of the parishes, townships, precincts, and places, whether parochial or extra-parochial (c) in the said district, delivered or to be delivered in pursuance of any of the Acts relating to county rates (d), and may take copies or extracts from any such rates or returns without payment of any fee or reward; and if any person having the custody of any such rate or return shall wilfully neglect or refuse to permit any such justice or other person to inspect the same, or to take copies or extracts from the same, within two days after such order shall have been produced and shown to him, or a copy thereof left at his usual place of abode, he shall, on conviction thereof before any two justices of the peace, forfeit and pay for every such offence, such sum, not exceeding ten pounds, as they shall think meet.

Right of inspecting county rates, &c.

* * * * *

10 GEO. IV. CHAP. 46.

AN ACT for more effectually executing an Act of the last Session of Parliament, for the better Regulation of Divisions in the several Counties of England and Wales.

[19th June, 1829.]

“ WHEREAS by an Act passed in the last session of parliament, 9 Geo. 4, intituled, ‘An Act for the better regulation of Divisions in the several Counties of England and Wales,’ the court of quarter

(c) See 20 Vict. c. 19, s. 1.

(d) See 32 & 33 Vict. c. 67, s. 45.

sessions is empowered in certain cases to make orders for altering existing divisions, and for constituting new divisions for holding petty sessions, whereby in many cases parts of a hundred, wapentake, ward, or other district in the nature of a hundred, will be severed, for the purposes aforesaid, from the main body thereof, and such hundred or other like district will thereafter be situate in two or more divisions: And whereas by divers Acts it is required of high constables to give notice to, or to serve precepts on, petty constables, churchwardens, overseers of the poor, surveyors of the highways, and others, similar duties may be cast upon high constables by future Acts, and the labour of executing such duties will be increased by the severance of the hundred or other like district under the provisions of the said recited Act, and difficulties may arise in the due execution of process in such cases:” For remedy thereof, be it enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that whensoever the court of quarter sessions shall under the said provisions, make an order for changing any parish, tithing, township, or place from one division to another, or an order for constituting any new division, and it shall appear to the court that any inconvenience will arise from such change if the high constable or high constables (a) shall continue liable to perform the duties aforesaid in respect of the whole of his or their hundred or other like district, the same court of quarter sessions shall make an order for remedying such inconvenience, either by directing that where there are more than one high constable such duties shall be divided between them, in such manner as to the court shall seem fit, or, if circumstances shall so require, that the high constable or high constables (a) shall be entirely exempted from the performance of a certain portion of those duties, and that the same portion shall be performed by the high constable of any other hundred, or by some petty constable, tithingman, or other peace officer, or by some other person or persons to be specified in the order; and every such order shall be binding on all justices, officers, and persons whomsoever (b).

Court of quarter session, on making order for division of any district, may at the same time make order respecting the duties of the high constables.

Act not to affect the rights of lords of manors.

II. Provided always, that neither this Act, nor any order to be made by virtue thereof, shall prejudice or affect the rights of any lord of any hundred, manor, or other franchise, nor any person claiming under him, otherwise than as to the service of process in the cases hereinbefore mentioned or referred to.

(a) See 32 & 33 Vict. c. 47.

c. 12; 22 & 23 Vict. c. 65; and 32

(b) See 9 Geo. 4, c. 43; 6 Will. 4, & 33 Vict. c. 47.

10 GEO. IV. CHAP. 52.

AN ACT to extend the Powers of an Act of the Fourth Year of His present Majesty, for enlarging the Powers of Justices in determining Complaints between Masters and Servants, to Persons engaged in the Manufacture of Silk.

[19 June, 1829.]

“WHEREAS an Act was passed in the fourth year of the reign 4 Geo. 4, of His present Majesty, intituled ‘An Act to enlarge the Power c 34. of Justices in determining Complaints between Masters and Servants, and between Masters, Apprentices, Artificers, and others :’ And whereas it is expedient to extend the operation of the said Act;” Be it enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that all the provisions of the said Act shall be extended to all persons engaged, whether as masters, servants, apprentices, or otherwise, in the several manufactures, trades, and occupations mentioned in an Act passed in the seventeenth year of the reign of His late Majesty King George the Third, intituled “An Act for amending and rendering more effectual the several Laws now in being 17 Geo. III. c. 56. for the more effectual preventing of Frauds and Abuses by Persons employed in the Manufacture of Hats, and in the Woollen, Linen, Fustian, Cotton, Iron, Leather, Fur, Hemp, Flax, Mohair, and Silk Manufactures, and also for making Provisions to prevent Frauds by Journeymen Dyers,” in the same manner as if such persons had been specially mentioned therein (c).

11 GEO. IV. & 1 WILL. IV. CHAP. 70.

AN ACT for the more effectual Administration of Justice in England and Wales.

[23rd July, 1830.]

* * * * *

XXXV. “And whereas it will be expedient that the times of holding the general quarter sessions of the peace should be altered in part;” Be it therefore enacted, that in the year of our Lord one thousand eight hundred and thirty-one, and afterwards, the justices of the peace in every county, riding, or division, for which quarter sessions of the peace by law ought to be held.

to be held, shall hold their general quarter sessions of the peace in the first week after the eleventh day of October, in the first week after the twenty-eighth day of December, in the first week after the thirty-first day of March, and in the first week after the twenty-fourth day of June; and that all acts, matters, and things, done, performed, and transacted at the times appointed by this Act for the holding of the general quarter sessions of the peace, shall be as valid and binding, to all intents and purposes, as if the same had been done, performed, and transacted at general quarter sessions of the peace, holden at the times by law limited for the holding thereof before the passing of this Act (a).

* * * *

1 WILL. IV. CHAP. 18.

AN ACT to explain and amend an Act of the Sixth Year of His late Majesty King George the Fourth, as far as regards the Settlement of the Poor by the renting and Occupation of Tenements.

[30th March, 1831.]

6 Geo. IV.
c. 57.

“ WHEREAS by an Act passed in the sixth year of the reign of His late Majesty George the Fourth, intituled ‘An Act for the Amendment of the Law respecting the Settlement of the Poor, as far as regards renting tenements and paying parochial taxes,’ it was among other things enacted, that no person shall acquire a settlement in any parish or township maintaining its own poor by or by reason of settling upon, renting or paying parochial rates for any tenement not being his or her own property, unless such tenement shall consist of a separate and distinct dwelling-house or building, or of land, or of both, *bonâ fide* rented by such person in such parish or township at and for the sum of ten pounds a year at the least for the term of one whole year; nor unless such house or building, or land, shall be occupied under such yearly hiring, and the rent for the same to the amount of ten pounds actually paid for the term of one whole year at the least: Provided always, that it shall not be necessary to prove the actual values of such tenements; any thing in any Act or Acts, or any construction of or implication from any Act or Acts, or any usage or custom to the contrary notwithstanding: And whereas doubts have arisen with respect to the intentions of the legislature concerning the occupation of such house, building, or land, by the person hiring the same, and concerning the amount of the rent to be paid, and the person paying the same: And whereas it is expedient that such doubts should be removed;” Be it therefore enacted, by the

(a) See 54 Geo. 3, c. 84; 4 & 5 Will. 4, c. 47.

King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this Act no person shall acquire a settlement in any parish or township maintaining its own poor, by or by reason of such yearly hiring of a dwelling-house or building, or of land, or of both, as in the said Act expressed, unless such house or building, or land, shall be actually occupied under such yearly hiring in the same parish or township, by the person hiring the same, for the term of one whole year at the least, and unless the rent for the same, to the amount of ten pounds at the least, shall be paid by the person hiring the same (c).

No person shall acquire a settlement by reason of a yearly hiring of a tenement, or of land, unless he shall actually occupy the same.

(c) See 4 Wm. & M. c. 11, s. 6; c. 50; 6 Geo. 4, c. 57, s. 2; 4 & 5 35 Geo. 3, c. 101, s. 4; 59 Geo. 3, Will. 4, c. 76, s. 66.

SETTLEMENT—PROSPECTIVE OPERATION OF STATUTE.

The first section of 1 Will. 4, c. 18, is prospective only: *Rex v. Ruthin*, *Decisions on* 5 B. & Ad. 215. sect. 1.

SETTLEMENT—HIRING AND OCCUPATION OF PREMISES.

To give a settlement by renting a tenement since 1 Will. 4, c. 18, there must be an occupation in fact of the whole dwelling-house or building of which the tenement consists, by the person hiring the same: *Rex v. St. Nicholas, Rochester*, 5 B. & Ad. 219.

Under 1 Will. 4, c. 18, no settlement was gained by occupying the same tenement for a continuous year, the occupation during part of the year being under one hiring for a year, and during the remainder under another hiring for a year: *Rex v. Banbury*, 1 A. & E. 136; 3 L. J. M. C. 76; 3 N. & M. 292.

If a tenement was hired, and the occupation of it commenced less than a year before 1 Will. 4, c. 18, the occupation, to gain a settlement, must have been such as would satisfy the requisitions of that Act: *Rex v. St. Nicholas, Colchester*, 2 A. & E. 599; 4 L. J. M. C. 46; 4 N. & M. 422.

If a person hiring a tenement, underlet any part of it, he has not the actual occupation of the tenement within the terms of 1 Will. 4, c. 18, s. 1, if there be any exclusive occupation given by such underletting. The smallness of the part underlet, and of the rent paid for it, and the shortness of the term of underletting would make no difference: *Ib.*

Where one, who rents a house, takes in lodgers, reserving to himself a right of access to the rooms at all times, and to put other lodgers in any of them, there is an actual occupation of a dwelling-house within 1 Will. 4, c. 18, s. 1: *Rex v. St. Giles-in-the-Fields*, 4 A. & E. 495; 5 L. J. M. C. 51.

Where there is neither an undivided occupation for a year, nor a payment of rent to satisfy 1 Will. 4, c. 18, s. 1, no settlement is gained: *Rex v. Pakefield*, 4 A. & E. 612; 5 L. J. M. C. 63; 6 N. & M. 16.

Under 6 Geo. 4, c. 57, and 1 Will. 4, c. 18, a settlement is not gained by renting a tenement unless the whole subject-matter of the demise be occupied by the person hiring it: *Rex v. Berkswell*, 6 A. & E. 282.

A pauper was held not to gain a settlement by renting a tenement under 1 Will. 4, c. 18, s. 1, who was not during the entire half of the term of the year of hiring the person hiring the premises: *Reg. v. Melsonby*, 12 A. & E. 687; 10 L. J. M. C. 2.

Payment to the amount of 10l. shall gain a settlement. II. Provided always, that where the yearly rent shall exceed ten pounds, payment to the amount of ten pounds shall be deemed sufficient for the purpose of gaining a settlement under the said recited Act.

1 & 2 WILL. IV. CHAP. 32.

An Act to amend the Laws in England relative to Game.
[5th October, 1831.]

* * * * *

Application of penalties for offences against this Act.

XXXVII. Every penalty and forfeiture for any offence against this Act (the application of which has not been already provided for) shall be paid to some one of the overseers of the poor, or to some other officer (as the convicting justice or justices may direct) of the parish, township, or place in which the offence shall have been committed, to be by such overseer or officer paid over to the use of the general rate of the county, riding, or division in which such parish, township, or place shall be situate, whether the same shall or shall not contribute

SETTLEMENT—HIRING AND OCCUPATION OF PREMISES—continued.

Decisions on 1 Will. IV. c. 18, s. 1.

The examinations must show that the house had been occupied for a year, under a yearly hiring within 1 Will. 4, c. 18, s. 1: *Reg. v. St. Sepulchre, Northampton*, 14 L. J. M. C. 8; 6 Q. B. 580.

There will be an occupation for one whole year within the meaning of 1 Will. 4, c. 18, where there is a fraction of a day short, inasmuch as the law would not, in such a case, acknowledge any fraction of a day, and occupation for part of a day would be considered as occupation for the whole day: *Reg. v. St. Mary, Warwick*, 21 L. T. 74; 22 L. J. M. C. 109; 17 Jur. 551; 1 E. & B. 816.

SETTLEMENT—PAYMENT OF RATES.

Since 1 Will. 4, c. 18, a settlement may still be acquired by payment of rates in respect of a tenement, part of which is underlet, if the requisitions of 6 Geo. 4, c. 57, s. 2, be fulfilled: *Rex v. Stoke Damerel*, 6 A. & E. 308; 6 L. J. M. C. 55.

Instance in which there was a sufficient occupation and payment of rent, as well as a sufficient assessment to and payment of rates, to confer a settlement under 1 Will. 4, c. 18, and 4 & 5 Will. 4, c. 76: *Reg. v. Hushwaite*, 21 L. J. M. C. 109; 16 J. P. 696; 18 Q. B. 447.

SETTLEMENT—EXTENT OF PROVISIO.

Decisions on *ib.*, sect. 2.

Section 2 of 1 Will. 4, c. 18, is retrospective, and therefore, where a pauper in 1829, hired a house at a yearly rent exceeding 10l., occupied it for more than a year, and paid less than a whole year's rent, but above 10l., it was held that he gained a settlement: *Rex v. Dursley*, 3 B. & Ad. 465.

The proviso to 1 Will. 4, c. 18, s. 2, applies both to settlements by renting a tenement, and by payment of parochial taxes; therefore, where one rented a tenement for a year at upwards of 80l., but underlet a part, and paid a portion of his rent amounting to 10l., and was rated and paid poor rates for the whole, he gained a settlement by payment of the rate: *Reg. v. Brighthelmstone*, 10 L. J. M. C. 93; 1 Q. B. 674.

to such general rate; and no inhabitant of such county, riding, or division shall be deemed an incompetent witness in any proceeding under this Act by reason of the application of such penalty or forfeiture to the use of the said general rate as aforesaid.

* * * * *

1 & 2 WILL. IV. CHAP. 37.

AN ACT to prohibit the Payment in certain Trades of Wages in Goods, or otherwise than in the Current Coin of the Realm.

[15th October, 1831.]

* * * * *

VII. If any such artificer as aforesaid, or his wife or widow, or if any child of any such artificer, not being of the full age of twenty-one years, shall become chargeable to any parish or place (a), and if within the space of three calendar months next before the time when any such charge shall be incurred such artificer shall have earned or have become entitled to receive any wages for any labour by him done in any of the said trades, which wages shall not have been paid to such artificer in the current coin of this realm, it shall be lawful for the overseers or overseer of the poor in such parish or place to recover from the employer of such artificer in whose service such labour was done the full amount of wages so unpaid, and to proceed for the recovery thereof by all such ways and means as such artificer himself might have proceeded for that purpose; and the amount of the wages which may be so recovered shall be applied in reimbursing such parish or place all costs and charges incurred in respect of the person or persons to become chargeable, and the surplus shall be applied and paid over to such person or persons (b).

* * * * *

XIX. Nothing herein contained shall extend to any artificer, workman, or labourer, or other person engaged or employed in any manufacture, trade, or occupation, excepting only artificers, workmen, labourers, and other persons employed in the several manufactures, trades, and occupations following; that is to say, in or about the making, casting, converting, or manufacturing of iron or steel, or any parts, branches, or processes thereof; or in or about the working or getting of any mines of coal, ironstone, limestone, salt rock; or in or about the working or

If the artificer or his wife or children become chargeable to the parish, the overseers may recover any wages earned within the three preceding months, and not paid in cash.

Specification of the trades to which the Act is to apply.

(a) See 28 & 29 Vict. c. 79, s. 1. (b) See 4 & 5 Will. 4, c. 76, s. 59.

getting of stone, slate, or clay ; or in the making or preparing of salt, bricks, tiles, or quarries ; or in or about the making or manufacturing of any kinds of nails, chains, rivets, anvils, vices, spades, shovels, screws, keys, locks, bolts, hinges, or any other articles or hardwares made of iron or steel, or of iron and steel combined, or of any plated articles of cutlery, or of any goods or wares made of brass, tin, lead, pewter, or other metal, or of any japanned goods or wares whatsoever ; or in or about the making, spinning, throwing, twisting, doubling, winding, weaving, combing, knitting, bleaching, dyeing, printing, or otherwise preparing of any kinds of woollen, worsted, yarn, stuff, jersey, linen, fustian, cloth, serge, cotton, leather, fur, hemp, flax, mohair, or silk manufactures whatsoever, or in or about any manufactures whatsoever made of the said last-mentioned materials, whether the same be or be not mixed one with another ; or in or about the making or otherwise preparing, ornamenting, or finishing of any glass, porcelain, china, or earthenware whatsoever, or any parts, branches, or processes thereof, or any materials used in any of such last-mentioned trades or employments ; or in or about the making or preparing of bone, thread, silk, or cotton lace, or of lace made of any mixed materials.

Domestics.

XX. Nothing herein contained shall extend to any domestic servant or servant in husbandry.

* * * * *

1 & 2 WILL. IV. CHAP. 41.

AN Act for amending the Laws relative to the Appointment of Special Constables, and for the better Preservation of the Peace.

[15th October, 1831.]

* * * * *

Special constables not to gain a settlement, nor be exempt from the militia.

XII. No person who shall be appointed a special constable, or who shall act as such under the provisions of this Act, shall by reason thereof acquire a legal settlement in any parish, township, or place, any law or statute to the contrary notwithstanding (*a*) ; and that no such person shall by reason thereof be exempt from the ballot for or from serving in the militia.

* * * * *

(*a*) This is not expressly repealed, but see 4 & 5 Will. 4, c. 76, s. 64.

1 & 2 WILL. IV. CHAP. 42.

AN ACT to amend an Act of the Fifty-ninth Year of His Majesty King George the Third, for the Relief and Employment of the Poor.

[15th October, 1831.]

“ WHEREAS by an Act passed in the fifty-ninth year of the reign of His late Majesty King George the Third, intituled ‘ An Act to amend the Laws for the relief of the Poor,’ certain power is given to churchwardens and overseers of the poor to provide land for the employment of the poor to an extent not exceeding twenty acres : And whereas such limitation to twenty acres has been found inconveient in many parishes :” Be it therefore enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that it shall and may be lawful for the churchwardens and overseers of the poor of any parish to hire and take on lease, for the employment of the poor of such parish any suitable portion or portions of land within or near to such parish, to an extent not exceeding fifty acres (a).

59 Geo. III. c. 12.

Churchwardens, &c. may provide land to a certain extent for employment of the poor.

II. In order to extend the salutary and benevolent purposes of this Act, it shall and may be lawful for the churchwardens and overseers of the poor of any parish to inclose from any waste or common land or ground lying in or near to such parish, with the consent in writing of the lord of the manor and the major part in value of the persons having right of common thereupon, signified under their hands and seals, any part or portion of such waste or common land not exceeding fifty acres, and to cultivate and improve the same for the use and benefit of such parish and the poor persons within the same, or to let any part or parts of the same to any poor and industrious inhabitant or inhabitants of such parish, to be by him or them occupied and cultivated on his or their own account.

Churchwardens, &c. may inclose part of waste lands for cultivation, with consent.

III. The powers and authorities hereby given to churchwardens and overseers of the poor shall extend to and may be exercised by the guardians of the poor of any parishes or places which are or may be incorporated or united under * * * or by virtue of any local Act or Acts, and by the overseers of all townships, villages, and places having separate overseers, and maintaining their poor separately (b).

Power to hire land, &c. extended to guardians, &c.

IV. The clauses, powers, and authorities, regulations, provisions, and directions, in and by the said recited Act given, contained, and made with respect to the providing of land for the employment of the poor, or to the cultivation, management, (a) See 59 Geo. 3, c. 12, s. 12; 1 & 2 Will. 4, c. 59; 2 & 3 Will. 4, c. 42, s. 11; 5 & 6 Will. 4, c. 69, s. 4.

Provisions of recited Act extended to lands hired, &c. under this Act.

(b) 29 & 30 Vict. c. 113, s. 18.

or disposition thereof, or to the poor persons employed thereon or renting any portion thereof, shall, so far as the same are applicable, be deemed and taken to extend to any land which shall be provided under this Act, and to the poor persons employed thereon or renting any portion thereof respectively.

No settlement
to be gained
by lands
hired.

V. Provided always, that no poor inhabitant of any parish or place, to whom any land shall be let which shall or may have been or shall be hired or taken or inclosed under or by virtue of the said recited Act or this Act, shall gain a settlement by reason of his renting and occupying or paying parochial taxes for such land, either alone or with any other land or tenement (a).

1 & 2 WILL. 4, CHAP. 59.

AN ACT to enable Churchwardens and Overseers to inclose Land belonging to the Crown, for the Benefit of Poor Persons residing in the Parish in which such Crown Land is situated.
[20th October, 1831.]

59 Geo. III.
c. 12.

“WHEREAS by an Act passed in the fifty-ninth year of the reign of His late Majesty King George the Third, intituled ‘An Act to amend the Laws for the Relief of the Poor,’ power is given to churchwardens and overseers of the poor to provide land for the employment of the poor: And whereas it is expedient to extend such power, so as to enable churchwardens and overseers of the poor to require for such purposes portions of forest or waste lands belonging to the Crown:” Be it therefore enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, and it shall and may be lawful for the churchwardens and overseer of the poor of any parish to inclose from any forest or waste lands belonging to the Crown lying in or near to such parish, with the consent in writing of the lord high treasurer or the commissioners of His Majesty’s Treasury of the United Kingdom of Great Britain and Ireland for the time being, to be signified by some warrant under his or their hand or hands, any part or portion of such forest or waste lands not exceeding fifty acres, for the purpose of cultivating and improving the same for the use and benefit of such parish and the poor persons within the same (b).

Churchwar-
dens, with
consent of
treasury, may
inclose crown
lands not ex-
ceeding fifty
acres.

Persons rent-
ing such land
not to gain a
settlement.

II. Provided always, that no poor inhabitant of any parish or place to whom any land shall be let which shall or may have been or shall be hired or taken or inclosed under or by virtue of the said recited Act or this Act, shall gain a settlement by

(a) See 35 Geo. 3, c. 101, s. 4; 6 Geo. 4, c. 57; 1 Will. 4, c. 18; 1 & 2 Will. 4, c. 42, s. 11; 2 & 3 Will. 4, c. 59; and 4 & 5 Will. 4, c. 42; 5 & 6 Will. 4, c. 69, s. 4.
(b) 59 Geo. 3, c. 12, s. 12; 1 & 2 Will. 4, c. 42, s. 11; 2 & 3 Will. 4, c. 42; 5 & 6 Will. 4, c. 69, s. 4.
c. 76, s. 66.

reason of his renting and occupying or paying parochial taxes for such lands, either alone or with any other land or tenement (c).

1 & 2 WILL. IV. CHAP. 60.

AN ACT for the better Regulation of Vestries, and for the Appointment of Auditors of Accounts, in certain Parishes of England and Wales (d).

[20th October, 1831.]

“ WHEREAS it is expedient to provide for the election of vestries and of auditors of parish accounts, in certain parishes of England and Wales ;” Be it therefore enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that this Act and the several provisions thereof, shall apply to and may be adopted, under and subject to the regulations herein contained, by any parish or parishes in England and Wales (e).

Act may be adopted by any parish.

II. When in any parish certain of the ratepayers thereof may desire that the said parish should come under the operation of this Act, then and in that case any number of ratepayers, amounting at least to one-fifth of the ratepayers of such parish, or any number of ratepayers, amounting at least to fifty parishioners, may, on some day between the first day of December and the first day of March, deliver a requisition by them signed, and describing their places of residence to the churchwardens, or to one of them, serving for the said parish, requiring of the said churchwardens to ascertain according to the manner hereinafter mentioned whether or not a majority of the ratepayers of the said parish do wish and require that this Act and the provisions thereof should be adopted therein ; and which requisition may be in the form or to the tenor and effect following ; (that is to say,)

Manner of adopting it in parishes where inhabitants do not assemble in open vestry.

To the Churchwardens of the Parish [*insert here the name of the Parish.*]

Form of requisition.

“ WE, whose names are hereunto subscribed, being ratepayers resident in the said parish, and respectively rated or assessed to the relief of the poor thereof, do hereby require you the said churchwardens to ascertain and determine the adoption or non-adoption of an Act of the second year of the reign of King William the Fourth, chapter , intituled ‘ An Act’ [*here insert the title of the Act*].

“ Dated this day of in the year of our Lord .”

(c) See 35 Geo. 3, c. 101, s. 4 ; 6 Geo. 4, c. 57 ; 1 Will. 4, c. 18 ; 4 & 5 Will. 4, c. 76, s. 66.

and as to relief, see 4 & 5 Will. 4, c. 76, s. 54.

(d) With respect to vestries generally, see the 59 Geo. 3, c. 12, s. 1 ;

(e) As to parishes in the Metropolis, see 18 & 19 Vict. c. 120.

Upon receipt of requisition churchwardens to give notice of time and place for receiving votes.

III. The said churchwardens of the said parish shall on the first Sunday in the month of March next after the receipt of such requisition, affix or cause to be affixed a notice to the principal doors of every church and chapel within the said parish, specifying some day not earlier than ten days and not later than twenty-one days after such Sunday, and at what place or places within the said parish, the ratepayers are required to signify their votes for or against the adoption of this Act; which votes shall be received on three successive days, commencing at eight o'clock in the forenoon and ending at four of the clock in the afternoon of each day; and the said notice shall be to the following effect:

Form of notice.

"THE churchwardens of this parish [*insert here the name of the parish*] having received a requisition duly signed according to the provisions of an Act of the second year of the reign of William the Fourth, chapter , for the better regulation of vestries, the ratepayers of this parish of [*insert here the name of the parish*] are hereby required, all and each of them, on the day of next, and the two following days, to signify to the said churchwardens by a declaration, either printed or written, or partly printed or partly written, addressed and delivered to one of the churchwardens at [*insert here the place*], their votes for or against the adoption of the aforesaid Act for the better regulation of vestries by the ratepayers of this parish.

"Churchwardens."

IV. The said declaration shall be to the following effect:

Form of declaration.

"I, A. B., of street [*or place or house*] in this parish of vote [*for or against, as the case may be*], the adoption of the Act of the second year of the reign of William the Fourth, chapter , for the better regulation of vestries by this parish."

Churchwardens to declare whether the votes are in favour of adopting this Act.

V. The said churchwardens shall carefully examine the votes to them delivered as aforesaid, and shall compare them with the last rate made for the relief of the poor of the said parish, and shall be empowered to call before them and examine any parish officer touching the said votes, or any ratepayer so giving his vote, and after a full and fair summing up of the said votes shall, by public notice according to the form and manner hereinafter prescribed, declare whether or not two-thirds of the votes have been given in favour of the adoption of the said Act: Provided always, that the whole number of persons voting shall be a clear majority of the ratepayers of the parish: Provided also, that the adoption or non-adoption of this Act shall be decided by such number of votes as aforesaid.

Ratepayers may inspect votes.

VI. Provided always, that any of the ratepayers of the aforesaid parish, not exceeding five together, may inspect at or in the vestry-room, or in some convenient place within the same

parish, and they are hereby empowered to inspect the votes so given for and against the adoption of this Act, at all seasonable times within one month after such notice shall have been given ; and the churchwardens of the said parish are hereby required carefully to preserve the said votes, and freely to permit and allow the examination thereof by the aforesaid ratepayers of the said parish at such reasonable times within the period aforesaid.

VII. Provided always, that no person shall be deemed a ratepayer, or be entitled to vote, or do any other act, matter, or thing as such under the provisions of this Act, unless he or she shall have been rated to the relief of the poor for the whole year immediately preceding his so voting or otherwise acting as such ratepayer, and shall have paid all the parochial rates, taxes, and assessments due from him or her at the time of so voting or acting, except such as have been made or become due within the six months immediately preceding such voting.

No person to vote unless he has been rated one year.

VIII. Notice of the adoption of this Act by any parish shall be forthwith given by the churchwardens for the time being of the said parish in the *London Gazette*, and in one or more of the public newspapers circulating in the county in which the said parish may be situated, and by affixing a notice of the same to the principal doors of every church and chapel within the said parish ; which notice shall be to the following effect :

Notice of adoption of the Act.

“ Parish of [*here insert name of parish*] .

“ NOTICE is hereby given, that the above-named parish has adopted the Act of the second year of the reign of King William the Fourth, chapter , intituled ‘ An Act [*here insert the title of the Act*] ; and that the numbers of the majority and minority of votes given for and against the adoption of the said Act are as follows ; that is to say, “ votes for the adoption thereof, and votes against the adoption thereof.

“ Dated this day of , in the year of our Lord . (Signed)

“ Churchwardens.”

IX. Provided always, that if the ratepayers shall determine, in the manner as aforesaid, against the adoption of this Act, then and in that case it shall not be lawful to make another requisition for the same purposes within three years after such determination.

No similar requisition to be made within three years.

X. In any parish in which public notice of the adoption of this Act in the manner as aforesaid shall be so made and given, this Act shall immediately become the law for electing vestrymen and auditors of accounts of the said parish in manner hereinafter mentioned.

This Act to take effect in all parishes in which its adoption has been notified.

XI. If any churchwarden, rate-collector, overseer, or other parish officer shall refuse to call meetings according to the provisions of this Act, or shall refuse or neglect to make

Penalties on churchwardens and others re-

fusing to
call meetings,
&c.

and give the declarations and notices directed to be made and given by this Act, or to receive the vote of any ratepayer as aforesaid, or shall in any manner whatsoever alter, falsify, conceal, or suppress any vote or votes as aforesaid, such churchwarden, rate-collector, overseer, or other parish officer, shall be deemed and taken to be guilty of a misdemeanor.

Notices of
election to be
given.

XII. On some Sunday, at least twenty-one days previously to the day of annual election of vestrymen, notice of election, pursuant to this Act, signed by the churchwardens, shall be affixed to the principal doors of every church and chapel of the said parish, and at other usual places, in the following terms :

“ Parish of [*here insert name of parish*] .

“ THE parishioners duly qualified according to the provisions of the Act of the second year of the reign of King William the Fourth intituled ‘ An Act [*here insert the title of the Act*] ,’ are hereby, required to meet at on the day of conformably to the provisions of the said Act, and then and there to consider of and elect fit and proper persons to be vestrymen and auditors of accounts of the parish of for the ensuing year; that is to say,

“ Members of the vestry.

“ Auditors of accounts.”

Rate collectors, &c., may be summoned to assist at the election.

XIII. The churchwardens may summon the rate-collectors to attend them on the said day of annual election, in order to assist them in ascertaining that the persons presenting themselves to vote are parishioners rated to the relief of the poor of the said parish, and duly qualified to vote at the said election.

Form of proceeding at annual elections.

XIV. On the day of annual election for vestrymen and auditors in any parish adopting this Act each parishioner then rated, and having been rated to the relief of the poor one year, desirous of voting, to meet at the place appointed for such election, then and there to nominate eight ratepayers of the said parish as fit and proper persons to be inspectors of votes, four of such eight to be nominated by the churchwardens, and the other four to be nominated by the meeting ; and after such nomination the said parishioners shall elect such parishioners duly qualified as may be there proposed for the offices of vestrymen and auditors ; and the chairman shall at such meeting declare the names of the parishioners who have been elected by a majority of votes at such meeting.

A ballot may be demanded.

XV. Provided always, that any five ratepayers may then and there, in writing or otherwise, demand a poll, which shall be taken by ballot, each ratepayer delivering to the aforesaid inspectors two folded papers, one of which papers shall contain the names of the persons for whom such parishioner may vote as fit and proper to be members of the vestry, and the other shall contain the names of the persons for whom such parishioner

may vote as fit and proper to be auditors of accounts : Provided always, that each ratepayer shall have one vote and no more for the members of the vestry, and one vote and no more for the auditors of accounts to be chosen in the said parish.

XVI. The inspectors of votes shall deposit the said folded lists, without previously opening the same, in two separate sets of balloting glasses or boxes, one set for the vestry lists, and another for the auditors' lists; and that the said balloting glasses or boxes shall be closed at the time fixed for the termination of the voting, that is, at four of the clock of the afternoon of the last day of election. Mode of voting.

XVII. After the close of the said ballot the aforesaid inspectors shall proceed to examine the said votes, and if necessary shall continue the examination by adjournments from day to day not exceeding four days, Sunday excepted, until they shall have decided upon the persons, duly qualified according to the provisions of this Act, who may have been chosen to fill the aforesaid offices. Duty of inspectors.

XVIII. If an equality of votes should appear to the aforesaid inspectors to be given for any two or more persons to fill any or either of the said offices, in that case the inspectors shall decide by lot upon the person or persons so to be chosen. In case of equality of votes.

XIX. If any person do forge or in any way falsify any name or writing in any paper or list purporting to contain the vote or votes of any parishioner as aforesaid so voting for vestrymen or auditors, or do by any contrivance attempt to obstruct or prevent the purposes of such mode of election, the persons so offending shall, upon information laid, and conviction before any two or more justices of the peace having jurisdiction in the parish so adopting this Act, be liable to a penalty of not less than ten and not more than fifty pounds, and in default of payment thereof shall be imprisoned for a term not exceeding six nor less than three months; and any fine so levied shall be given, half to the informer who shall have informed against the person so offending, and the other half to the poor of the parish in which the said offence shall have been committed. Penalty for forging or falsifying any voting list or obstructing the election.

XX. The aforesaid inspectors shall, immediately after they shall have decided upon whom the aforesaid elections have fallen, deliver to the churchwardens or to one of them serving for the parish so adopting this Act a list of the persons chosen by the parishioners to act as vestrymen and auditors of accounts; and the said list, or a copy thereof, shall be affixed to the door of the churches and chapels or other places chosen for the purposes of public notice in the said parish. Public notice, to be given of vestrymen and auditors chosen by parishioners.

XXI. If any inspector as aforesaid shall wilfully make or cause to be made an incorrect return of the said votes, every such offender shall, upon information laid by any person before two or more justices of the peace having jurisdiction in the said parish, and upon conviction for such offence, be liable to a penalty of not less than twenty-five pounds and not exceeding fifty pounds. Penalty on inspector for making incorrect return.

Elections to be annual.

XXII. In all parishes adopting this Act the meeting of parishioners for the election of the vestrymen and auditors of accounts by the parishioners shall take place in the month of May in every year: Provided always, that when a ballot is demanded at such election the same shall commence on the following day, and continue for three successive days, commencing at eight of the clock in the forenoon and closing at four of the clock in the afternoon on each day: Provided also, that the day on which such elections shall commence shall in the first instance be appointed by the churchwardens of the parishes adopting this Act, but in every subsequent year shall be appointed by the vestry: Provided always, that when by reason of the populousness of any parish the said parish shall have been or shall be divided into districts for ecclesiastical or other purposes, then and in that case the said votes shall be taken, according to the aforesaid mode of election, in some convenient place, at the discretion of the churchwardens, in each of the several districts of the said parish.

Vestry to consist of not less than twelve nor more than one hundred and twenty householders.

XXIII. In all parishes adopting this Act the vestry appointed and elected as hereinbefore mentioned shall, when the said Act shall come into full effect, consist of a certain number of resident householders; that is to say, twelve vestrymen for every parish in which the number of rated householders shall not exceed one thousand; and twelve other additional vestrymen, that is, twenty-four vestrymen, for every parish in which the rated householders shall exceed one thousand; and twelve other additional vestrymen, that is, thirty-six vestrymen, for every parish in which the number of rated householders shall exceed two thousand; and so on at the proportion of twelve additional vestrymen for every thousand rated householders: Provided always, that in no case the number of vestrymen shall exceed one hundred and twenty: Provided always, that in any parish wherein a greater number of vestrymen are given by special Act of parliament than the proportions aforesaid will amount to, that then the number of vestrymen shall remain the same as given by such Act of parliament; and provided always, that the rector, district rectors, vicar, perpetual curate, and churchwardens of the said parish shall constitute a part of the said vestry, and shall vote therein, in addition to the vestrymen as aforesaid elected under this Act: Provided always, that no more than than one such rector or other such minister as aforesaid, from any one parish or ecclesiastical district as aforesaid, shall *ex-officio* be a part of or vote at any vestry meeting.

Proportion of existing vestry to go out of office at each of three first elections under this Act.

XXIV. At the first election for vestrymen after the adoption of this Act in any parish, one-third of the then existing vestry, or the nearest number thereto, but not exceeding the same, shall retire from office (such portion to be determined by lot), and the parishioners duly qualified shall elect a number of vestrymen equal to one-third of the vestry, to be chosen according to the provisions of this Act; and that on the next ensuing annual election for vestrymen one-half, or as nearly as may be one-

half, of the remaining part of the first aforesaid vestry shall retire from office (such portion to be determined by lot), and the parishioners duly qualified shall again elect a number of vestrymen equal to one-third of the vestry, to be chosen according to the provisions of this Act; and that on the next, that is to say, the third annual election for vestrymen, the last remaining portion of the vestry as aforesaid shall retire from office, and the parishioners duly qualified shall elect vestrymen in like manner and number as at the two preceding elections, so as to fill up the vestry to the exact number of vestrymen prescribed by this Act.

XXV. At every subsequent annual election those vestrymen who have been three years in office shall go out of office, and the parishioners shall elect according to the provisions of this Act other vestrymen, to the number of one-third of the total number of which such vestry shall consist, as also fill up any vacancies which may have occurred from death or other causes: Provided always, that any or all of the vestrymen so going out by rotation may be immediately eligible for re-election.

Vestrymen to quit office after three years, and one-third of the whole number to be elected annually.

XXVI. The vestry elected under this Act in any parish not within the metropolitan police district of the city of London shall consist of resident householders rated or assessed to the relief of the poor upon a rental of not less than ten pounds; and no person shall be capable of acting as one of the said vestry unless he shall be the occupier of a house, lands, tenements, or hereditaments rated or assessed upon the afore-mentioned amount of rental within the parish for which he is to serve: Provided always, that if the parish adopting this Act should be within the metropolitan police district or the city of London, or if the resident householders therein should amount to more than three thousand, then and in that case the vestry elected under this Act shall consist of resident householders rated or assessed to the relief of the poor of such parish upon a rental of not less than forty pounds per annum.

Qualifications of vestrymen.

XXVII. From and after the adoption of this Act in any parish the vestry shall exercise the powers and privileges held by any vestry now existing in such parish, and the authority of such vestry may be pleaded before any justice or justices of the peace, or in any court of law, in regard to all parochial property, or monies due, or holdings or contracts or other documents of the like nature, formerly under the control or in the keeping of the said vestry of the said parish; and all parish officers or boards shall account to them in like manner as they have accounted to the said vestry: Provided always, that nothing in this Act shall be deemed, construed, or taken to repeal, alter, or invalidate any local Act for the government of any parish by vestries, or for the management of the poor by any board of directors and guardians, or for the due provision for divine worship within the parish, and the maintenance of the clergy

Vestries appointed after the adoption of this Act to exercise the authority of former vestries.

Not to affect local Acts regarding vestries, divine worship, &c.

except as herein expressed.

The acts of a quorum of the vestry at any meeting to be considered as the acts of the vestry.

Meeting not to be held in the church.

Meeting to elect a chairman.

Proceedings to be entered in books to be open to inspection.

Account books to be kept, and be open to inspection.

officiating therein, otherwise than is by this Act expressly enacted regarding the election of vestrymen and auditors of accounts.

XXVIII. All powers or duties to be performed by the vestry of any parish adopting this Act may be exercised and performed respectively by the major part of such vestry assembled at any meeting, there not being less than five vestrymen present at a meeting of a vestry which consists of twelve or more elected vestrymen and not exceeding twenty-three, and not being less than seven vestrymen present at a meeting of a vestry which consists of twenty-four or more elected vestrymen and not exceeding thirty-five, and not being less than nine vestrymen present at a meeting of a vestry which consists of thirty-six elected vestrymen or upwards; and all orders and directions given and all contracts and engagements entered into by the vestrymen present at any such meeting, or the major part of them then assembled, shall be as valid and effectual as if the same were done by all the said vestrymen for the time being, and shall be binding and conclusive on all such vestrymen, provided that the same is confirmed at the next subsequent meeting of the vestry.

XXIX. In any case in which the vestry-room of any parish in any city or town shall not be sufficiently large and commodious for any vestry meeting, such meeting shall be held elsewhere within the said parish or place, but not in the church or chapel thereof.

XXX. At every meeting of any vestry, in the absence of the persons authorized by law or custom to take the chair, the members present shall elect a chairman for the occasion before proceeding to other business.

XXXI. The vestry of every parish adopting this Act shall cause to be provided and kept a proper book or books, and proper entries to be made therein of the names of the several vestrymen who shall attend the respective meetings of the vestry, and of all orders and proceedings made or taken at such meetings; and all such books shall at all reasonable times be open to the inspection of the said vestrymen, and of any person rated or assessed to the relief of the poor of the said parish, and of any creditor on the rates of the said parish, without fee or reward; and the said vestrymen, persons, and creditors, or any of them shall and may take copies of, or extracts from such books respectively, without paying anything for the same; and in case the clerk to the said vestry, or other person having the care of such books shall refuse to permit or shall not permit the said vestrymen or such persons or creditors to inspect the same, or to take such copies or extracts as aforesaid, such clerk or other person shall forfeit and pay any sum of money not exceeding ten pounds for every such offence.

XXXII. The said vestry shall and they are hereby required to cause a book or books to be provided and kept, and true and regular accounts to be entered therein of all sums of money

received and disbursed for or on account of parochial purposes, and of the several articles, matters, and things for which sums of money shall have been so received and disbursed; which book or books shall at all seasonable times be open to the inspection of the said vestrymen, and of any person or persons rated to the relief of the poor of the said parish, and of any creditor or creditors on the same, without fee or reward; and the said vestrymen and persons and creditors as aforesaid, or any of them, shall and may take copies of or extracts from the said book or books, or any part or parts thereof, without paying any thing for the same; and in case the clerk to the said vestrymen, or other person with whom such books shall remain, shall on any reasonable demand refuse to permit or shall not permit the said vestrymen, persons, or creditors, or any of them, to inspect the said book or books, or to take such copies or extracts as aforesaid, such clerk or other person as aforesaid shall forfeit and pay any sum not exceeding ten pounds for every such offence.

XXXIII. In any and every parish adopting this Act, the parishioners duly qualified to vote for vestrymen as aforesaid shall elect five ratepayers of the said parish, who shall have signified in writing their assent to serve to be auditors of accounts, which auditors shall be so elected on the first day on which the vestrymen shall be chosen after such parish shall have adopted this Act, and according to the same forms of voting as are hereinbefore prescribed for the election of the said vestry: Provided always, that no person shall be eligible to fill the said office of auditor of accounts who shall not be qualified according to the provisions of this Act, as hereinbefore stated, to fill the office of vestrymen for the said parish: and provided always, that no person shall be eligible to fill the said office of auditor of accounts who shall be one of the vestry for the said parish; and if any person on the day of annual election shall be chosen to be both a member of the vestry and an auditor of accounts, the said vestry at their first meeting after such election shall declare the said person incapable of acting as vestryman: Provided also, that no person shall be eligible to fill the said office of auditor of accounts who shall be interested, either directly or indirectly, in any contract, office, business, or employ, or in providing or supplying any materials or articles for the parish for which he is to serve; and any person who shall be discovered, after his election, to be so interested, shall cease to be an auditor.

Auditors to
be chosen
annually.

Qualification.

Further
qualifications
of auditors.

Disqualifica-
tion.

XXXIV. The aforesaid auditors of accounts shall meet twice at least in each year, at the board room of the vestry, and (a majority of the said auditors being present at such meetings) shall proceed to audit the accounts of the said vestry for the preceding half-year, in presence of the vestry clerk; and the said vestry are hereby required, by their said clerk, to produce and lay before the said auditors at every such meeting a true and just statement or account in writing, accompanied with

Mode of audit.

proper vouchers, of all sums of money which may have come to the hands of the said vestry or of their treasurer, and also of all monies paid, laid out, or expended by them, or by any churchwardens, overseers, surveyors, or other persons by them employed, and responsible to the said vestry, since the last period up to which the accounts of the said vestry were audited; and in all parishes in which other boards shall have control over any part of the parochial expenditure, the said auditors shall have the same power of examining the accounts and officers thereof as of examining the accounts and officers of the vestry, and shall audit the accounts of the said boards in the same manner as they audit the accounts of the said vestries.

Auditors may call for persons and books.

XXXV. The said auditors shall have power to summon and call before them, by a writing for that purpose signed by any one of them, or by the clerk of the vestry of any parish adopting this Act, any parish officer or other person or persons whatsoever concerned in the said accounts, and to require of him or her or them to attend the said auditors at any meeting or adjourned meeting, and to bring with them all books of accounts, writings, papers, and documents required, which may concern the said accounts, and to give such information as to the particulars of such accounts as he, she, or they shall be enabled to give; and any parish officer or other person refusing so to attend, or otherwise wilfully obstructing the purposes of such inquiry, all be deemed guilty of a misdemeanor.

Accounts to be signed by auditors.

XXXVI. The said accounts, when audited and approved by the said auditors, or by the major part of them, shall be by them signed in the presence of the clerk of the aforesaid vestry of any parish adopting this Act, and the said clerk of the vestry shall also affix his signature to the same; and it shall be lawful for the aforesaid auditors to subjoin such remarks thereto as to them shall seem meet.

Accounts after audit to be open to inspection.

XXXVII. The said accounts when so audited and signed, shall remain at the office of the clerk of the said vestry; and that the said accounts shall after such audit be open and accessible for the examination, at all seasonable times, of any person rated to the relief of the poor of the said parish, and of any creditor on the rates thereof: Provided always, that nothing in this Act contained relative to the appointment and duty of auditors shall debar the parishioners from any remedy by them before possessed by the law of the land.

Abstracts of accounts to be published fourteen days after being audited.

XXXVIII. An abstract of the accounts of all monies received and disbursed by the vestry in any parish adopting this Act shall twice in every year, within fourteen days after the same shall have been audited in manner in this Act mentioned, be made out by the said vestry, either in writing or in print, and a copy of such abstract shall be delivered to all persons applying for the same, and rated or assessed to the relief of the poor of the said parish, such person paying one shilling for the same; and which copies the said clerk is hereby required to cause to be published either in writing or print, and distributed accordingly.

XXXIX. In any parish adopting this Act the vestry shall cause to be made out, once at least in every year, a list of the several freehold, copyhold, and leasehold estates, and of all charitable foundations and bequests, if any, belonging to the said parish and under the control of the said vestry, the said list to contain a true and detailed account of the place where such estate or charitable foundation may be situate, or in what mode and security such bequest may be invested, specifying also the yearly rental of each, and the particular appropriation thereof, together with the names of the persons partaking of their benefit (except where such benefit shall be allotted to the poor of the parish generally), and to what amount in each case, and also stating the name and description of the persons in whom such estates are vested, and the names and description of the trustees for each charity: Provided always, that the aforesaid list shall be open for the inspection of the ratepayers, at the office of the vestry clerk, at the same time with the accounts when audited according to the provisions of this Act.

Vestry to make out and publish yearly a list of estates, charities, and bequests, &c. with the application thereof.

XL. Provided always, that this Act or any thing therein contained shall not extend or be construed to extend to invalidate or avoid any ecclesiastical law or constitution of the church of England, save and except so far as concerns the appointment of vestries, or to destroy any of the rights or powers belonging to the archbishops, bishops, deans, or other of the clergy of the said established church, either as individuals or as corporate bodies, or in anywise to abridge or control their ordinary jurisdiction over or relating to any matter or thing respecting the ministers thereof.

Saving of ecclesiastical jurisdiction.

XLI. And in order to remove doubts as to the meaning of certain words in this Act, Be it enacted that the word "justice" shall be deemed to mean justice of the peace; and that the words "person" and "party" shall be deemed to include any number of persons or parties; and that the words "justices of the peace of the county or city" shall be deemed to include justices of the peace of any division of a county, liberty, division of a liberty, precinct, county of a city, county of a town, cinque port, or town corporate; and that the word "parish" shall be deemed to include any liberty, precinct, township, hamlet, tithing, vill, extra-parochial place, or any place maintaining its own poor; and that the word "rate-payers" shall include "ley-payers;" and that the meaning of the several words in this Act shall not be restricted, although the same may be subsequently referred to in the singular number or masculine gender only.

Meaning of terms used in this Act.

XLII. The words "church or chapel," insomuch as regards the affixing of notices as by this Act directed, shall be deemed to include all places of religious worship according to the forms of the established church: and that in any parish or place not having a parish church or chapel as aforesaid, the said notices shall be affixed to some public building within the limits of the said parish or place.

As to affixing notices.

Act not to extend to parishes where not more than 800 rate-payers, except in cities or towns.

Public Act.

XLIII. Provided always, that nothing in this Act contained shall extend to any parish not being within or being part of any city or town, in which parish there shall not be a greater number than eight hundred persons rated as householders, and having paid the rates for the relief of the poor within the year preceding that in which the provisions of this Act may be desired to be put in execution within such parish.

XLIV. This Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such by all judges, justices, and others, without the same being specially pleaded.

2 WILL. IV. CHAP. 42.

AN ACT to authorize (in Parishes inclosed under any Act of Parliament) the letting of the Poor Allotments in small Portions to industrious Cottagers (*a*).

[1st June, 1832.]

“ WHEREAS in parishes inclosed under Acts of parliament there are in many cases allotments made for the benefit of the poor, chiefly with a view to fuel, which are now comparatively useless and unproductive : And whereas it would tend much to the welfare and happiness of the poor if those allotments could be let at a fair rent, and in small portions, to industrious cottagers of good character, while the distribution of fuel might be augmented by appropriating the said rents to the purchase of an additional quantity ; ” Be it therefore enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that it shall and may be lawful for the trustees of the said allotments, together with the churchwardens and overseers of the poor in parish vestry assembled, and they are hereby required, to let portions of any such allotment, not less than one-fourth of a statute acre, and not exceeding one such acre, to any one individual, according to their discretion, as a yearly occupation from Michaelmas to Michaelmas (and at such rent as land of the same quality is usually let for in the said parish), to such industrious cottagers of good character, being day labourers or journeymen legally settled in the said parish, and dwelling within or near its bounds, as shall apply for the same in the manner hereinafter mentioned.

Trustees and parish officers in vestry assembled may let portions of poor allotments to industrious cottagers.

Land to be duly cultivated.

Vestry to be held annually to receive applications.

II. Provided also, that the person hiring the same shall be held bound to cultivate it in such a manner as shall preserve the land in a due state of fertility.

III. For the purpose of carrying this Act into effect a vestry shall be held in the first week in September in every year,

(*a*) See 1 & 2 Will. 4, c. 42 ; *Id.* c. 59 ; and 5 & 6 Will. 4, c. 69, s. 4.

of which ten days' notice shall be given in the usual manner (*b*), at which vestry the trustees of the said allotments may attend and vote, if they shall so think fit, and at which vestry, or some adjournment thereof, any industrious cottager of good character who may desire to rent such portion of land as aforesaid may apply for the same; and the said vestry are hereby required, taking into consideration the character and circumstances of the applicant, to determine the case, either by rejecting his application, or by making an order that he shall be permitted to occupy such portion of the poor allotment, being not less than one-fourth of a statute acre, nor exceeding one such acre, as the said vestry in their discretion shall determine, and upon the terms hereinbefore enacted; and the said order of vestry shall be held to all intents and purposes to be a sufficient title and authority to such applicant to enter into the occupation of such land at the time therein appointed.

Order of vestry to authorize occupation.

IV. Provided always, that the rent shall be reserved and payable to the churchwardens and overseers of the poor, on behalf of the vestry, in one gross sum for the whole year, and shall be paid to one or either of them at the end of the year's occupation.

Payment of rent.

V. If the rent of such portion of land shall at any time be four weeks in arrear, or if at the end of any one year of occupation, it shall be the opinion of the vestry that the land has not been duly cultivated, so as to fulfil the useful and benevolent purposes of this Act, then and in such case the churchwardens and overseers of the poor, or any or either of them, with the consent of the vestry, may serve a notice to quit upon the occupier of such portion of land; whereupon the said occupier shall deliver up possession of the same to the churchwardens and overseers aforesaid, or any or either of them, within one week after the said notice has been duly served upon him.

If rent is in arrear, or land not duly cultivated, tenant may be evicted.

VI. If any person to whom such portion of land as aforesaid shall have been let, for his or her own occupation, shall refuse to quit and to deliver up possession thereof when thereto required according to the terms of this Act, or if any other person or persons shall unlawfully enter upon or take or hold possession of any such land, it shall be lawful for the churchwardens and overseers of the poor, or any or either of them, to exhibit a complaint against the person so in possession of such land before two of His Majesty's justices of the peace, who are hereby authorized and required to issue a summons, under their hands and seals, to the person against whom such complaint shall be made to appear before them at a time and place appointed therein; and such justices are hereby required and empowered upon the appearance of the defendant before them, or upon proof on oath that such summons has been duly served upon him, or left at his usual place of residence, or if there should have been any difficulty in finding such usual

Power to recover possession of land illegally held over, by summary process.

place of residence, then upon proof on oath of such difficulty, and that such summons has been affixed on the door of the parish church of the said parish in which such land is situated, and in any extra-parochial place on some public building or other conspicuous place therein, to proceed to hear and determine the matter of such complaint, and if they shall find and adjudge the same to be true, then by warrant under their hands and seals to cause possession of the land in question to be delivered to the churchwardens and overseers of the poor or to some of them.

Arrears of rent
how to be
recovered.

VII. All arrears of rent for the said portions of land shall be recoverable by the churchwardens and overseers of the poor, or any of them, on behalf of the vestry, by application to two of His Majesty's justices of the peace in petty sessions assembled, who shall thereupon summon the party complained against, and after hearing what he has to allege, should they find any rent to be due, they are required to issue a warrant under their hands and seals to levy the same upon the goods and chattels of the person from whom the said rent shall be due and owing.

Application of
rent.

VIII. The rent of the said portions of land shall be applied by the vestry in the purchase of fuel, to be distributed in the winter season among the poor parishioners legally settled and resident in or near the said parish.

Power to ex-
change, for
greater con-
venience of
cottagers.

IX. If any of the said allotments shall be found to lie at an inconvenient distance from the residences of the cottagers, it shall be lawful for the vestry by an order made to that effect to let such allotment, or any part thereof, for the best rent that can be procured for the same, and to hire in lieu thereof for the purposes of this Act land of equal value more favourable situated.

No habitations
to be erected.

X. No habitations shall be erected on the portions of land demised under this Act, either at the expense of the parish or by the individuals renting the same.

Extending
powers and
provisions of
this Act to
1 & 2 Will. IV.
c. 42, and
c. 59.

XI. "And whereas by two Acts of the first and second years of the reign of His present Majesty, intituled 'An Act to amend an Act of the Fifty-ninth year of His Majesty King George the Third, for the Relief and the Employment of the Poor (a),' and the other intituled 'An Act to enable the Churchwardens and Overseers to inclose Lands belonging to the Crown, for the Benefit of poor Persons residing in the Parish in which such Crown Land is situated (a),' power is given, under certain restrictions, to inclose any quantity not exceeding fifty acres of waste land and Crown land respectively, for the use and benefit of the poor;" Be it further enacted, that in any parish where such inclosure shall exist or shall hereafter take place, or where land shall in any other manner be found appropriated for the general benefit of the poor of any parish, then and in such cases the powers and provisions of this Act shall be held to apply, in so far as the same may be found applicable.

(a) See 1 & 2 Will. 4, c. 42, s. 1; and 1 & 2 Will. 4, c. 59, s. 1.

2 WILL. IV. CHAP. 45.

AN ACT to amend the Representation of the People in England and Wales.

[7th June, 1832.]

* * * * *

XVIII. No person shall be entitled to vote in the election of a knight or knights of the shire to serve in any future parliament, or in the election of a member or members to serve in any future parliament for any city or town being a county of itself, in respect of any freehold lands or tenements whereof such person may be seized for his own life, or for the life of another, or for any lives whatsoever, except such person shall be in the actual and *bonâ fide* occupation of such lands or tenements, or except the same shall have come to such person by marriage, marriage settlement, devise, or promotion to any benefice or to any office, or except the same shall be of the clear yearly value of not less than ten pounds above all rents and charges payable out of or in respect of the same; any statute or usage to the contrary notwithstanding: Provided always, that nothing in this Act contained shall prevent any person now seized for his own life, or for the life of another, or for any lives whatsoever, of any freehold lands or tenements in respect of which he now has, or but for the passing of this Act might acquire, the right of voting in such respective elections, from retaining or acquiring, so long as he shall be so seized of the same lands or tenements, such right of voting in respect thereof, if duly registered according to the respective provisions hereinafter contained (b).

Limitation of the right of voting for counties and for cities being counties of themselves, in respect of freeholds for life.

XIX. Every male person of full age, and not subject to any legal incapacity, who shall be seized at law or in equity of any lands or tenements of copyhold or any other tenure whatever except freehold, for his own life, or for the life of another, or for any lives whatsoever, or for any larger estate of the clear yearly value of not less than ten pounds over and above all rents and charges payable out of or in respect of the same, shall be entitled to vote in the election of a knight or knights of the shire to serve in any future parliament for the county, or for the riding, parts, or division of the county, in which such lands or tenements shall be respectively situate (b).

Right of voting in counties extended to copyholders.

XX. Every male person of full age, and not subject to any legal incapacity, who shall be entitled, either as lessee or assignee, to any lands or tenements, whether of freehold or of any other tenure whatever, for the unexpired residue, whatever it may be, of any term originally created for

Right of voting in counties extended to leaseholders and occupiers of premises of

(b) See 11 & 12 Vict. c. 90, s. 27; 30 & 31 Vict. c. 102, s. 5.

certain value above charges. a period of not less than sixty years, (whether determinable on a life or lives, or not) of the clear yearly value of not less than ten pounds over and above all rents and charges payable out of or in respect of the same, or for the unexpired residue, whatever it may be, of any term originally created for a period of not less than twenty years, (whether determinable on a life or lives, or not,) of the clear yearly value of not less than fifty pounds over and above all rents and charges payable out of or in respect of the same, or who shall occupy as tenant any lands or tenements for which he shall be *bonâ fide* liable to a yearly rent of not less than fifty pounds, shall be entitled to vote in the election of a knight or knights of the shire to serve in any future Parliament for the county, or for the riding, parts, or division of the county, in which such lands or tenements shall be respectively situate: Provided always, that no person, being only a sub-lessee, or the assignee of any underlease, shall have a right to vote in such election in respect of any such term of sixty years or twenty years as aforesaid, unless he shall be in the actual occupation of the premises (a).

What not to be deemed charges. XXI. No public or parliamentary tax, nor any church rate, county rate, or parochial rate, shall be deemed to be any charge payable out of or in respect of any lands or tenements within the meaning of this Act (a).

County voters need not be assessed to the land tax. XXII. In order to entitle any person to vote in any election of a knight of the shire or other member to serve in any future parliament, in respect of any messuages, lands, or tenements, whether freehold or otherwise, it shall not be necessary that the same shall be assessed to the land tax; any statute to the contrary notwithstanding (a).

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Possession for a certain time, and registration, essential to the right of voting for a county. XXVI. Notwithstanding anything hereinbefore contained no person shall be entitled to vote in the election of a knight or knights of the shire to serve in any future parliament unless he shall have been duly registered according to the provisions hereinafter contained; and that no person shall be so registered in any year in respect of his estate or interest in any lands or tenements, as a freeholder, copyholder, customary tenant, or tenant in ancient demesne, unless he shall have been in the actual possession thereof, or in the receipt of the rents and profits thereof for his own use, for six calendar months at least next previous to the last day of July in such year, which said period of six calendar months shall be sufficient, any statute to the contrary notwithstanding; and that no person shall be so registered in any year, in respect of any lands or tenements held by him as such lessee or assignee, or as such occupier and tenant as aforesaid, unless he shall have been in the actual possession thereof, or in the receipt of the rents and profits thereof for his own use as the case

(a) See 11 & 12 Vict. c. 90, s. 27; 30 & 31 Vict. c. 102, s. 5.

may require, for twelve calendar months next previous to the last day of July in such year: Provided always, that where any lands or tenements, which would otherwise entitle the owner, holder, or occupier thereof to vote in any such election, shall come to any person, at any time within such respective periods of six or twelve calendar months, by descent, succession, marriage, marriage settlement, devise, or promotion to any benefice in a church, or by promotion to any office, such person shall be entitled in respect thereof to have his name inserted as a voter in the election of a knight or knights of the shire in the lists then next to be made by virtue of this Act as hereinafter mentioned, and upon his being duly registered according to the provisions hereinafter contained, to vote in such election (b).

Exception in case of property coming by descent, &c.

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XXX. In every city or borough which shall return a member or members to serve in any future parliament, and in every place sharing in the election for such city or borough, it shall be lawful for any person occupying any house, warehouse, counting-house, shop, or other building, either separately, or jointly with any land occupied therewith by him as owner, or occupied therewith by him as tenant under the same landlord, in any parish or township in which there shall be a rate for the relief of the poor, to claim to be rated to the relief of the poor in respect of such premises, whether the landlord shall or shall not be liable to be rated to the relief of the poor in respect thereof; and upon such occupier so claiming, and actually paying or tendering the full amount of the rate or rates, if any, then due in respect of such premises, the overseers of the parish or township in which such premises are situate are hereby required to put the name of such occupier upon the rate for the time being; and in case such overseers shall neglect or refuse so to do, such occupier shall nevertheless for the purposes of this Act be deemed to have been rated to the relief of the poor in respect of such premises from the period at which the rate shall have been made in respect of which he shall have so claimed to be rated as aforesaid: Provided always, that where by virtue of any Act of parliament the landlord shall be liable to the payment of the rate for the relief of the poor in respect of any premises occupied by his tenant, nothing herein contained shall be deemed to vary or discharge the liability of such landlord; but that in case the tenant who shall have been rated for such premises in consequence of any such claim as aforesaid shall make default in the payment of the poor's rate due in respect thereof, such landlord shall be and remain liable for the payment thereof in the same manner as if he alone had been rated in respect of the premises so occupied by his tenant (c).

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(b) See 30 & 31 Vict. c. 102, s. 5.

(c) See 5 & 6 Will. 4, c. 76, s. 11; 11 & 12 Vict. c. 90; 31 & 32 Vict. c. 58, s. 30; and 32 & 33 Vict. c. 41, ss. 7, 19.

As to receipt of parochial relief.

XXXVI. No person shall be entitled to be registered in any year as a voter in the election of a member or members to serve in any future parliament for any city or borough who shall within twelve calendar months next previous to the last day of July in such year have received parochial relief or other alms which by the law of parliament now disqualify from voting in the election of members to serve in parliament (a).

Overseers to give notice annually, requiring county voters to send in their claims.

XXXVII. "And whereas it is expedient to form a register of all persons entitled to vote in the election of a knight or knights of the shire to serve in any future parliament, and that for the purpose of forming such register the overseers of every parish and township should annually make out lists in the manner hereinafter mentioned;" Be it therefore enacted, that the overseers of the poor of every parish and township shall on the twentieth day of June in the present and in every succeeding year cause to be fixed on or near the doors of all the churches and chapels within such parish or township, or if there be no church or chapel therein, then to be fixed in some public and conspicuous situation within the same respectively, a notice according to the form numbered 1, in the Schedule (H.) to this Act annexed, requiring all persons who may be entitled to vote in the election of a knight or knights of the shire to serve in any future parliament, in respect of any property situate wholly or in part in such parish or township, to deliver or transmit to the said overseers on or before the twentieth day of July in the present and in every succeeding year a notice of their claim as such voters according to the form numbered 2, in the said Schedule (H.), or to the like effect: Provided always, that after the formation of the register to be made in each year, as herein-after mentioned, no person whose name shall be upon such register for the time being shall be required thereafter to make any such claim as aforesaid, so long as he shall retain the same qualification, and continue in the same place of abode described in such register (b).

Persons once on the register not required to make any subsequent claim.

Overseers to prepare lists of county voters, and to publish them every year.

XXXVIII. The overseers of the poor of every parish and township, shall on or before the last day of July in the present year make out, or cause to be made out, according to the form numbered 3, in the said Schedule (H.) an alphabetical list of all persons who shall claim as aforesaid to be inserted in such list as voters in the election of a knight or knights of the shire to serve for the county, or for the riding, parts, or division of the county wherein such parish or township lies, in respect of any lands or tenements situate wholly or in part within such parish or township; and that the said overseers shall on or before the last day of July in every succeeding year make out or cause to be made out a like list, containing the names of all persons who shall be upon the register for the

(a) See 30 & 31 Vict. c. 102, s. 40. (b) See 2 & 3 Will. 4, c. 64, s. 37.

time being as such voters, and also the names of all persons who shall claim as aforesaid to be inserted in such last-mentioned list as such voters; and in every list so to be made by the overseers as aforesaid the Christian name and surname of every person shall be written at full length, together with the place of his abode, the nature of his qualification, and the local or other description of such lands or tenements, as the same are respectively set forth in his claim to vote, and the name of the occupying tenant, if stated in such claim; and the said overseers, if they shall have reasonable cause to believe that any person so claiming as aforesaid, or whose name shall appear in the register for the time being, is not entitled to vote in the election of a knight or knights of the shire, for the county, or for the riding, parts, or division of the county in which their parish or township is situate, shall have power to add the words "objected to" opposite the name of every such person on the margin of such list; and the said overseers shall sign such list, and shall cause a sufficient number of copies of such list to be written or printed, and to be fixed on or near the doors of all the churches and chapels within their parish or township, or if there be no church or chapel therein, then to be fixed up in some public and conspicuous situation within the same respectively, on the two Sundays next after such list shall have been made; and the said overseers shall likewise keep a true copy of such list, to be perused by any person, without payment of any fee, at all reasonable hours during the two first weeks after such list shall have been made: Provided always, that every precinct or place, whether extra-parochial or otherwise, which shall have no overseers of the poor, shall for the purpose of making out such list as aforesaid be deemed to be within the parish or township adjoining thereto, such parish or township being situate within the same county, or the same riding, parts, or division of a county, as such precinct or place; and if such precinct or place shall adjoin two or more parishes or townships so situate as aforesaid, it shall be deemed to be within the least populous of such parishes, or townships according to the last census for the time being; and the overseers of the poor of every such parish or township shall insert in the list for their respective parish or township the names of all persons who shall claim as aforesaid to be inserted therein as voters in the election of a knight or knights of the shire to serve for the county, or for the riding, parts, or division of the county, in which such precinct or place as aforesaid lies, in respect of any lands or tenements situate wholly or in part within such precinct or place (c).

Overseers to have power of objecting to any name inserted in the lists;

to keep copies of lists for inspection.

Provision as to places having no overseers.

XXXIX. Every person who shall be upon the register for the time being of voters for any county, or for any riding, parts or division of a county, or who shall have claimed to be inserted

Notice of objection by third parties to persons not

entitled to be retained in the county lists.

Lists of persons objected to by third parties to be published, &c.

Lists of county voters to be forwarded to the clerks of the peace.

in any list for the then current year of voters for any county, or any riding, parts, or division of a county, may object to any person as not having been entitled on the last day of July then next preceding, to have his name inserted in any list of voters for such county, riding, parts or division so to be made out as aforesaid; and every person so objecting (save and except overseers objecting in the manner hereinbefore mentioned) shall, on or before the twenty-fifth day of August in the present and in every succeeding year, give or cause to be given a notice in writing according to the form numbered 4, in the said Schedule (H.), or to the like effect, to the overseers who shall have made out the list in which the name of the person so objected to shall have been inserted; and the person so objecting shall also, on or before the twenty-fifth day of August in the present and in every succeeding year, give to the person objected to, or leave at his place of abode as described in such list, or personally deliver to his tenant in occupation of the premises described in such list, a notice in writing according to the form numbered 5, in the said Schedule (H.), or to the like effect; and the overseers shall include the names of all persons so objected to in a list according to the form numbered 6, in the said Schedule (H.), and shall cause copies of such list to be fixed on or near the doors of all the churches and chapels within their parish or township, or if there be no church or chapel therein, then to be fixed in some public and conspicuous situation within the same respectively, on the two Sundays next preceding the fifteenth day of September in the present and in every succeeding year; and the overseers shall likewise keep a copy of the names of all the persons so objected to, to be perused by any person, without payment of any fee, at all reasonable hours during the ten days next preceding the said fifteenth day of September in the present and in every succeeding year.

XL. On the twenty-ninth day of August in the present and in every succeeding year the overseers of every parish and township shall deliver the list of voters so made out as aforesaid, together with a written statement of the number of persons objected to by the overseers and by other persons, to the high constable or high constables of the hundred or other like district in which such parish or township is situate; and such high constable or high constables shall forthwith deliver all such lists, together with such statements as aforesaid, to the clerk of the peace of the county, riding, or parts, who shall forthwith make out an abstract of the number of persons objected to by the overseers and by other persons in each parish and township, and transmit the same to the barrister or barristers appointed as hereinafter mentioned to revise such lists, in order that the said barrister or barristers may fix proper times and places for holding his or their courts for the revision of the said lists (b).

(b) See 32 & 33 Vict. c. 47, s. 2.

XLI. The Lord Chief Justice of the court of King's Bench for the time being shall, in the month of July or August in the present and in every succeeding year, nominate and appoint for Middlesex, and the senior judge for the time being in the commission of assize for every other county shall, when travelling the summer circuit, in the present and in every succeeding year, nominate and appoint for every such county, or for each of the ridings, parts, or divisions of such county, a barrister or barristers to revise the lists of voters in the election of a knight or knights of the shire: and such barrister or barristers so appointed as aforesaid shall give public notice, as well by advertisement in some of the newspapers circulating within the county, riding, parts, or division, as also by a notice to be fixed in some public and conspicuous situation at the principal place of election for the county, riding, parts, or division (such last-mentioned notice to be given three days at the least before the commencement of his or their circuit), that he or they will make a circuit of the county, riding, parts, or division for which he or they shall be so appointed, and of the several times and places at which he or they will hold courts for that purpose, such times being between the fifteenth day of September inclusive and the twenty-fifth day of October inclusive in the present and in every succeeding year, and he or they shall hold open courts for that purpose at the times and places so to be announced; and where two or more barristers shall be appointed for the same county, riding, parts, or division, they shall attend at the same places together, but shall sit apart from each other, and hold separate courts at the same time for the dispatch of business: Provided always, that no member of parliament, nor any person holding any office or place of profit under the crown, shall be appointed such barrister, and that no barrister so appointed as aforesaid shall be eligible to serve in parliament for eighteen months from the time of such his appointment for the county, riding, parts, or division for which he shall be so appointed.

Judges of
assize to name
barristers, who
shall revise the
lists of county
voters.

Period for
revision.

XLII. The clerk of the peace shall at the opening of the first court to be held by every such barrister for any county, or for any riding, parts, or division of a county, produce or cause to be produced before him the several lists of voters for such county, riding, parts, or division which shall have been delivered to such clerk of the peace by the high constables as aforesaid; and the overseers of every parish and township who shall have made out the lists of voters shall attend the court to be held by every such barrister at the place appointed for revising the lists relating to such parish or township respectively, and shall also deliver to such barrister a copy of the list of the persons objected to, so made out by them as aforesaid; and the said overseers shall answer upon oath all such questions as such barrister may put to them or any of them touching any matter necessary for revising the lists of voters; and every such barrister shall retain on the lists of voters the names of all persons to whom no objection shall have been made

Clerk of the
peace and
overseers to
attend be-
fore the bar-
risters, who
shall retain on
the county
lists all names
not objected
to, and shall
expunge those
whose qualifi-
cation, if ob-
jected to, shall
not be proved.

by the overseer, or by any other person, in the manner hereinbefore mentioned; and he shall also retain on the list of voters the name of every person who shall have been objected to by any person other than the overseers, unless the party so objecting shall appear by himself or by some one on his behalf in support of such objection; and where the name of any person inserted in the list of voters shall have been objected to by the overseers, or by any other person, in the manner hereinbefore mentioned, and such person so objecting shall appear by himself or by some one on his behalf in support of such objection, every such barrister shall require it to be proved that the person so objected to was entitled on the last day of July then next preceding to have his name inserted in the list of voters in respect of the qualification described in such list; and in case the same shall not be proved to the satisfaction of such barrister, or in case it shall be proved that such person was then incapacitated by any law or statute from voting in the election of members to serve in parliament, such barrister shall expunge the name of every such person from the said lists; and he shall also expunge from the said lists the name of every person who shall be proved to him to be dead; and shall correct any mistake which shall be proved to him to have been made in any of the said lists as to any of the particulars by this Act required to be inserted in such lists; and where the Christian name of any person, or his place of abode, or the nature of his qualification, or the local or other description of his property, or the name of the tenant in the occupation thereof, as the same respectively are required to be inserted in any such list, shall be wholly omitted therefrom, such barrister shall expunge the name of every such person from such list, unless the matter or matters so omitted be supplied to the satisfaction of such barrister before he shall have completed the revision of such list, in which case he shall then and there insert the same in such list: Provided always, that no person's name shall be expunged from any such list, except in case of his death, or of his being objected to on the margin of the list by the overseers as aforesaid, or except in case of any such omission or omissions as hereinbefore last-mentioned, unless such notice as is hereinbefore required in that behalf shall have been given to the overseers, nor unless such notice as is hereinbefore required in that behalf shall have been given to such person, or left at his place of abode, or delivered to his tenant as hereinbefore mentioned.

Power to rectify mistakes and supply omissions in the lists.

Proviso.

Barrister to have power to insert in the county lists the names of claimants omitted by the overseers on proof of claim and qualification.

XLIII. Provided also, that if it shall happen that any person who shall have given to the overseers of any parish or township due notice of his claim to have his name inserted in the list of voters in the election of a knight or knights of the shire shall have been omitted by such overseers from such list, it shall be lawful for the barrister, upon the revision of such list, to insert therein the name of the person so omitted, in case it shall be proved to the satisfaction of such barrister that such person gave due notice of such his claim to the said overseers, and

that he was entitled on the last day of July then next preceding to be inserted in the list of voters in the election of a knight or knights of the shire for the county, or for the riding, parts, or division of the county, wherein the parish or township of such overseers may be situate, in respect of any lands or tenements within such parish or township.

XLIV. The overseers of the poor of every parish and township either wholly or in part situate within any city or borough, or place sharing in the election for any city or borough, which shall return a member or members to serve in any future parliament, shall, on or before the last day of July in the present and in each succeeding year, make out or cause to be made out, according to the form numbered 1 in the Schedule marked (I.) to this Act annexed, an alphabetical list of all persons who may be entitled by virtue of this Act to vote in the election of a member or members to serve in any future parliament for such city or borough in respect of the occupation of premises of the clear yearly value of not less than ten pounds as hereinbefore mentioned, situate wholly or in part within such parish or township, and another alphabetical list, according to the form numbered 2, in the said Schedule (I.), of all other persons (except freemen) who may be entitled to vote in the election for such city or borough by virtue of any other right whatsoever; and in each of the said lists the Christian name and surname of every person shall be written at full length, together with the nature of his qualification; and where any person shall be entitled to vote in respect of any property, then the name of the street, lane, or other description of the place where such property may be situate shall be specified in the list; and where any person shall be entitled to vote otherwise than in the respect of any property, then the name of the street, lane, or other description of the place of such person's abode shall be specified in the list; and the overseers shall sign each of such lists, and shall cause a sufficient number of copies of such lists to be printed, and to be fixed on or near the doors of all the churches and chapels in their several parishes and townships, or if there be no church or chapel therein, then to be fixed up in some public and conspicuous situation within the same respectively, on the two Sundays next after such lists shall have been made; and the said overseers shall likewise keep true copies of such lists, to be perused by any person, without payment of any fee, at all reasonable hours during the two first weeks after such lists shall have been made.

Overseers to prepare lists of persons (other than freemen) entitled to vote in boroughs, and to publish them.

Copies of lists to be kept for inspection.

XLV. Every precinct or place, whether extra-parochial or otherwise, having no overseers of the poor, which now is or hereafter may be within any city or borough, or within any place sharing in the election for any city or borough shall, for the purpose of making out the list of voters for such city or borough, be deemed to be within the parish or township adjoining thereto, and situate wholly or in part within such city

Provision for places within boroughs having no overseers.

or borough, or within such place sharing in the election therewith ; and if such precinct or place shall adjoin two or more parishes or townships so situate as aforesaid, it shall be deemed to be within the least populous of such parishes or townships according to the last census for the time being ; and the overseers of every such parish or township shall insert in the list for their respective parish or township the names of all persons who may be entitled to vote in the election of a member or members to serve in any future parliament for any such city or borough in respect of any property occupied by such persons within such city or borough, or within any place sharing in the election therewith, such property being situate wholly or in part within such precinct or place as aforesaid (a).

Town clerks to prepare and publish the lists of free-men.

XLVI. The town clerk of every city or borough shall, on or before the last day of July in the present and in each succeeding year, make out or cause to be made out according to the for numbered 3, in the said Schedule (I.), an alphabetical list of all the freemen of such city or borough who may be entitled to vote in the election of a member or members to serve in any future parliament for such city or borough, together with the respective places of their abode ; and the town clerk of every place sharing in the election for any city or borough shall, at the respective times aforesaid, make out or cause to be made out a like list of all the freemen of such place who may be entitled to vote in the election of a member or members to serve in any future parliament for such city or borough ; and every such town clerk shall cause a copy of every such list to be fixed on or near the door of the town hall, or in some public and conspicuous situation within such respective city, borough, or place as aforesaid, on the two Sundays next after such list shall have been made, and shall likewise keep a true copy of such list to be perused by any person without payment of any fee, at all reasonable hours during the two first weeks after such list shall have been made : Provided always, that where there shall be no town clerk for such city, borough, or place as aforesaid, or where the town clerk shall be dead or incapable of acting, all matters by this Act required to be done by and with regard to the town clerk shall be done by and with regard to the person executing duties similar to those of the town clerk, and if there be no such person, then by and with regard to the chief civil officer of such city, borough or place.

Persons omitted in the borough lists to give notice of their claims.

XLVII. Every person whose name shall have been omitted in any such list of voters for any city or borough so to be made out as hereinbefore mentioned, and who shall claim to have his name inserted therein as having been entitled on the last day of July then next preceding, shall, on or before the twenty-fifth day of August in the present and in every succeeding year, give or cause to be given a notice in writing, according to the form numbered 4, in the said Schedule (I.), or to the

(a) See 13 & 14 Vict. c. 57, s. 7.

like effect, to the overseers of that parish or township in the list whereof he shall claim to have his name inserted, or if he shall claim as a freeman of any city or borough, or place sharing in the election therewith, then to the town clerk of such city, borough or place : and every person whose name shall have been inserted in any list of voters for any city or borough may object to any other person as not having been entitled on the last day of July then next preceding to have his name inserted in any list of voters for the same city or borough, and every person so objecting shall, on or before the 25th day of August in the present and in every succeeding year, give or cause to be given a notice in writing, according to the form numbered 5, in the said Schedule (I.), or to the like effect, to the overseers who shall have made out the list in which the name of the person so objected to shall have been inserted, or if the person objected to shall have been inserted in the list of freemen of any city, borough, or place as aforesaid, then to the town clerk of such city, borough, or place ; and the overseers shall include the names of all persons so claiming as aforesaid in a list according to the form numbered 6, in the said Schedule (I.), and the names of all persons so objected to as aforesaid in a list according to the form numbered 7, in the said Schedule (I.), and shall cause copies of such two lists to be fixed on or near the doors of all the churches and chapels within their parish or township, or if there be no church or chapel therein, then to be fixed in some public and conspicuous situation within the same respectively, on the two Sundays next preceding the fifteenth day of September in the present and in every succeeding year ; and every town clerk shall include the names of all persons so claiming as freemen in a list according to the form numbered 8, in the said Schedule (I.), and the names of all persons so objected to as freemen in a list according to the form numbered 9, in the said Schedule (I.), and shall cause copies of such two lists to be fixed on or near the door of the town hall, or in some public and conspicuous situation, within his respective city, borough, or place as aforesaid, on the two Sundays hereinbefore last mentioned in the present and every succeeding year ; and the overseers and town clerks shall likewise keep a copy of the names of all the persons so claiming as aforesaid, and also a copy of the names of all persons so objected to as aforesaid, to be perused by any person, without payment of any fee, at all reasonable hours during the ten days next preceding the said fifteenth day of September in the present and in every succeeding year, and shall deliver a copy of each of such lists to any person requiring the same, on payment of one shilling for each copy.

Notices as to persons not entitled to be retained in the lists.

Lists of claimants, and of persons objected to, to be published, &c.

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L. The barrister or barristers so appointed to revise the lists of voters for any city or borough shall hold an open court or courts for that purpose within such city or borough,

Barrister to revise lists of borough vo-

ters, and upon
due proof to
insert and ex-
punge names.

and also within every place sharing in the election for such city or borough, at some time between the fifteenth day of September inclusive and the twenty-fifth day of October inclusive in the present and in every succeeding year, having first given three clear days notice of the holding of such court or courts, to be fixed on the doors of all churches and chapels within such city, borough, or place respectively, or if there be no church or chapel therein, then to be fixed in some public and conspicuous situation within the same respectively; and the overseers and town clerks who shall have made out the lists of voters as aforesaid, and in the case of the city of London the returning officer or officers of the said city, shall, at the opening of the first court to be held by every such barrister for revising such lists, produce their respective lists before him; and the said overseers and town clerks shall also deliver to such barrister a copy of the list of the persons objected to, so made out by them as aforesaid; and the clerks of the several livery companies of the city of London, and the town clerk of every other city or borough, or place sharing in the election therewith, and the several overseers within every city, borough, or place as aforesaid, shall attend the court to be held by every such barrister for any such city, borough, or place as aforesaid, and shall answer upon oath all such questions as such barrister may put to them or any of them touching any matter necessary for revising the lists of voters; and every such barrister shall insert in such lists the name of every person who shall be proved to his satisfaction to have been entitled on the last day of July then next preceding to have his name inserted in any such list of voters for such city or borough; and such barrister shall retain on the lists of voters for such city or borough the names of all persons to whom no objection shall have been made in the manner hereinbefore mentioned, and he shall also retain on the said lists the name of every person who shall have been objected to by any person, unless the party so objecting shall appear by himself, or by some one on his behalf, in support of such objection; and where the name of any person inserted in the list of voters for such city or borough shall have been objected to in the manner hereinbefore mentioned, and the person so objecting shall appear by himself, or by some one on his behalf, in support of such objection, every such barrister shall require it to be proved that the person so objected to was entitled on the last day of July then next preceding to have his name inserted in the list of voters for such city or borough in respect of the qualification described in such list, and in case the same shall not be proved to the satisfaction of such barrister, or in case it shall be proved that such person was then incapacitated by any law or statute from voting in the election of members to serve in parliament, such barrister shall expunge the name of every such person from the said lists, and he shall also expunge from the said lists the name of every person who shall be proved to him to be dead, and shall correct any mistake

which shall be proved to him to have been made in any of the said lists as to any of the particulars by this Act required to be inserted in such lists; and where the Christian name, or the place of abode, or the nature of the qualification, or the local description of the property of any person who shall be included in any such list, shall be wholly omitted in such list in any case where the same is by this Act directed to be specified therein, such barrister shall expunge the name of every such person from such list, unless the matter or matters so omitted be supplied to the satisfaction of such barrister before he shall have completed the revision of such list, in which case he shall then and there insert the same in such list: Provided always, that no person's name shall be inserted by such barrister in any such list for any city or borough, or shall be expunged therefrom, except in the case of death, or of such omission or omissions as hereinbefore last mentioned, unless such notice shall have been given as is hereinbefore required in each of the said cases.

Power to rectify mistakes and supply omissions in the lists.

LI. The overseers of every parish or township shall, for their assistance in making out the lists in pursuance of this Act (upon request made by them or any of them, at any reasonable time between the first day of June and the last day of July in the present and in any succeeding year, to any assessor or collector of taxes, or to any other officer having the custody of any duplicate or tax assessment, for such parish or township), have free liberty to inspect any such duplicate or tax assessment, and to extract from thence such particulars as may appear to such overseer or overseers to be necessary; and every barrister appointed under this Act shall have power to require any assessor, collector of taxes, or other officer having the custody of any duplicate or tax assessment, or any overseer or overseers having the custody of any poor rate, to produce the same respectively before him at any court to be held by him, for the purpose of assisting him in revising the lists to be by him revised in pursuance of this Act.

Power of inspecting tax assessments and rate books.

* * * *

LV. The overseers of every parish and township shall cause to be written or printed copies of the lists so by them to be made in the present and in every succeeding year, and shall deliver such copies to all persons applying for the same, on payment of a reasonable price for each copy; and the monies arising from the sale thereof shall be accounted for by the said overseers, and applied to the same purposes as monies collected for the relief of the poor; and the clerks of the peace shall cause to be written or printed copies of the registers of the electors for their respective counties, ridings, or parts, or for the divisions of their respective counties; and the returning officer of every city or borough shall cause to be written or printed copies of the register of the electors for such city or borough; and every such clerk of the peace, and every such

Copies of the lists and of the registers to be printed for sale.

returning officer, shall deliver such respective copies to all persons applying for the same, on payment of a reasonable price for each copy; and the monies arising from the sale of all such copies shall be accounted for to the treasurer of the county, riding, or parts.

Expenses of
overseers,
clerks of the
peace, &c.
how to be
defrayed.

LVI. For the purpose of defraying the expences to be incurred by the overseers of the poor and by the clerk of the peace in carrying into effect the several provisions of this Act, so far as relates to the electors for any county, or for any riding, parts, or division of a county, every person, upon giving notice of his claim as such elector to the overseers, as hereinbefore mentioned, shall pay or cause to be paid to the said overseers the sum of *one shilling* (a); and such notice of claim shall not be deemed valid until such sum shall have been paid; and the overseers of each parish or township shall add all monies so received by them to the money collected or to be collected for the relief of the poor in such parish or township, and such money so added shall be applicable to the same purposes as monies collected for the relief of the poor; and that for the purpose of defraying the expenses to be incurred by the returning officer of every city and borough, and by the overseers of the several parishes and townships in every city and borough, and place sharing in the election therewith, in carrying into effect the provisions of this Act, so far as relates to the electors for such city or borough, every such elector whose name shall be upon the register of voters for such city or borough for the time being shall be liable to the payment of *one shilling* (a) annually, which sum shall be levied and collected from each elector in addition to and as a part of the money payable by him as his contribution to the rate for the relief of the poor, and such sum shall be applicable to the same purposes as money collected for the relief of the poor; and that the expenses incurred by the overseers of any parish or township in making out, printing, and publishing the several lists and notices directed by this Act, and all other expenses incurred by them in carrying into effect the provisions of this Act, shall be defrayed out of the money collected or to be collected for the relief of the poor in such parish or township; and that all expenses incurred by the returning officer of any city or borough in causing the lists of the electors for such city or borough to be copied out and made into a register, and in causing copies of such register to be written or printed, shall be defrayed by the overseers of the poor of the several parishes and townships within such city or borough, or place sharing in the election therewith, out of the money collected or to be collected for the relief of the poor in such parishes and townships, in proportion to the number of persons placed on the register of voters for each parish or township; and that all expenses incurred by the clerk of the peace of any county, riding, or parts, or for any division of

(a) See 6 Vict. c. 18, s. 58.

such county, to be copied out and made into a register, and in causing copies of such register to be written or printed, and in otherwise carrying into effect the provisions of this Act, shall be defrayed by the treasurer of such county, riding, or parts out of any public money in his hands, and he shall be allowed all such payments in his accounts: Provided always, that no expenses incurred by any clerk of the peace under this Act shall be so defrayed unless the account shall be laid before the justices of the peace at the next quarter sessions after such expenses shall have been incurred, and allowed by the court.

* * * * *

LXXIX. Throughout this Act * * * the words “parish or township” shall extend to every parish, township, vill, hamlet, district or place maintaining its own poor (b); and the words “overseer of the poor” shall extend to all persons who by virtue of any office or appointment shall execute the duties of overseers of the poor, by whatever name or title such persons may be called, and in whatsoever manner they may be appointed, and that all matters by this Act directed to be done by the overseers of a parish or township may be lawfully done by the major part of such overseers, and that wherever any notice is by this Act required to be given to the overseers of any parish or township, it shall be sufficient if such notice shall be delivered to any one of such overseers, or shall be left at his place of abode, or at his office or other place for transacting parochial business, or shall be sent by the post, addressed by a sufficient direction, to the overseers of the particular parish or township, or to any one of them, either by their or his Christian name and surname, or by their or his name of office (c). * * *

* * * * *

Of the sense in which the words in this Act are to be understood: “Parish or township:” “Overseers of the poor.”

2 & 3 WILL. IV. CHAP. 64.

AN ACT to settle and describe the Divisions of Counties, and the Limits of Cities and Boroughs, in England and Wales, in so far as respects the Election of Members to serve in Parliament.

[11th July, 1832.]

* * * * *

XXXVII. Notwithstanding the generality of any description contained in the said Schedule to this Act annexed marked (O.), no city, borough, or place, the contents whereof are specified in such schedule, shall include any part of any parish, township, hamlet, chapelry, tithing, manor, or liberty which is detached from the main body of such parish, township, hamlet, chapely, tithing, manor, or liberty, if, by reason of including such

Provision as to detached parts of parishes, &c. and for extra parochial places.

(b) See 29 & 30 Vict. c. 113, s. 18.
(c) See 30 & 31 Vict. c. 102, ss. 59, 61.

detached part, the boundary hereby established of such city, borough, or place would not be continuous, unless such detached part shall, before the passing of this Act, have formed part of such city, borough, or place for the purpose of the election of members to serve in parliament; but that all places, parochial or extra-parochial (*a*), which are surrounded by the contents of which any city, borough, or place is said in such Schedule marked (O.) to consist, but for which no provision is made in such Schedule (O.) shall be considered as included within such city, borough, or place, for the purpose of the election of members to serve in parliament (*b*).

* * * * *

2 & 3 WILL. IV., CHAP. 75.

AN ACT for regulating Schools of Anatomy (*c*) [1st August, 1832.]

* * * * *

Persons having lawful custody of bodies may permit them to undergo anatomical examination in certain cases.

VII. It shall be lawful for any executor or other party having lawful possession of the body of any deceased person, and not being an undertaker or other party intrusted with the body for the purpose only of interment, to permit the body of such deceased person to undergo anatomical examination, unless, to the knowledge of such executor or other party, such person shall have expressed his desire, either in writing at any time during his life, or verbally in the presence of two or more witnesses during the illness whereof he died, that his body after death might not undergo such examination, or unless the surviving husband or wife, or any known relative of the deceased person, shall require the body to be interred without such examination.

(*a*) See 20 Vict. c. 19, s. 1.

(*c*) See 7 & 8 Vict. c. 101, s. 31.

(*b*) See 2 Will. 4, c. 45, s. 37.

INDICTMENT OF WORKHOUSE MASTER.

Decision on
2 & 3 Will. IV.,
c. 75, sect. 7.

The master of St. Mary, Newington Workhouse, in order to prevent the relatives of certain deceased paupers requiring their bodies to be buried without anatomical examination, after showing them the bodies, changed the coffins, and caused the relatives to follow empty coffins to the grave. The bodies were then with all the formalities prescribed by 2 & 3 Will. 4, c. 75, taken to Guy's Hospital, dissected and afterwards buried. The master was paid by the hospital certain sums of money proportionate to the number of bodies he took to it. On indictment, charging the master in one count with selling the bodies, in another with taking away the bodies for gain for the purpose of delaying the burial with intent to have them dissected; and in a third, with taking them away with intent to sell and dispose of them; it was held that the indictment could not be sustained, as the master was protected by 2 & 3 Will. 4, c. 75, s. 7, since the relatives, though prevented by fraud, in fact made no requirement that the bodies should not be dissected: *Reg. v. Feist*, 27 L. J. M. C. 164; 4 Jur. (N. S.) 541; 31 L. T. 267; 1 Deasley & Bell, C. C. R. 59; 22 J. P. 322.

VIII. If any person, either in writing at any time during his life, or verbally in the presence of two or more witnesses during the illness whereof he died, shall direct that his body after death be examined anatomically, or shall nominate any party by this Act authorized to examine bodies anatomically to make such examination, and if, before the burial of the body of such person, such direction or nomination shall be made known to the party having lawful possession of the dead body, then such last-mentioned party shall direct such examination to be made, and, in case of any such nomination as aforesaid, shall request and permit any party so authorized and nominated as aforesaid to make such examination, unless the deceased person's surviving husband or wife, or nearest known relative, or any one or more of such person's nearest known relatives, being of kin in the same degree, shall require the body to be interred without such examination.

Provision in case of persons directing anatomical examinations after their death.

IX. Provided always, that in no case shall the body of any person be removed for anatomical examination from any place where such person may have died, until after forty-eight hours from the time of such person's decease, nor until twenty-four hours notice, to be reckoned from the time of such decease, to the inspector of the district, of the intended removal of the body, or, if no such inspector have been appointed, to some physician, surgeon, or apothecary residing at or near the place of death, nor unless a certificate stating in what manner such person came by his death shall previously to the removal of the body have been signed by the physician, surgeon, or apothecary who attended such person during the illness whereof he died, or if no such medical man attended such person during such illness, then by some physician, surgeon, or apothecary who shall be called in after the death of such person to view his body, and who shall state the manner or cause of death according to the best of his knowledge and belief, but who shall not be concerned in examining the body after removal; and that in case of such removal such certificate shall be delivered, together with the body, to the party receiving the same for anatomical examination.

The body not to be removed from the place where such person may have died without a certificate.

X. It shall be lawful for any member or fellow of any college of physicians or surgeons, or any graduate or licentiate in medicine, or any person lawfully qualified to practise medicine in any part of the United Kingdom, or any professor, teacher, or student of anatomy, medicine, or surgery, having a licence from His Majesty's principal secretary of state or chief secretary as aforesaid, to receive or possess for anatomical examination, or to examine anatomically, the body of any person deceased, if permitted or directed so to do by a party who had at the time of giving such permission or direction lawful possession of the body, and who had power, in pursuance of the provisions of this Act, to permit or cause the body to be so examined, and provided such certificate as aforesaid were delivered by such party together with the body.

Professors, surgeons, and others may receive bodies for anatomical examination.

Such persons to receive with the body a certificate as aforesaid, which shall be transmitted to the inspector.

XI. Every party so receiving a body for anatomical examination after removal shall demand and receive, together with the body, a certificate as aforesaid, and shall, within twenty-four hours next after such removal, transmit to the inspector of the district such certificate, and also a return stating at what day and hour and from whom the body was received, the date and place of death, the sex, and (as far as is known at the time) the Christian and surname, age, and last place of abode of such person, or if no such inspector have been appointed, to some physician, surgeon, or apothecary residing at or near the place to which the body is removed, and shall enter or cause to be entered the aforesaid particulars relating thereto, and a copy of the certificate he received therewith, in a book to be kept by him for that purpose, and shall produce such book whenever required so to do by any inspector so appointed as aforesaid.

* * * * *

How bodies are to be removed for examination.

XIII. Provided always, that every such body so removed as aforesaid for the purpose of examination shall, before such removal, be placed in a decent coffin or shell, and be removed therein; and that the party removing the same, or causing the same to be removed as aforesaid, shall make provision that such body, after undergoing anatomical examination, be decently interred in consecrated ground, or in some public burial-ground in use for persons of that religious persuasion to which the person whose body was so removed belonged; and that a certificate of the interment of such body shall be transmitted to the inspector of the district within six weeks after the day on which such body was received as aforesaid (a).

* * * * *

Act not to prohibit post-mortem examination.

XV. Nothing in this Act contained shall be construed to extend or to prohibit any post-mortem examination of any human body required or directed to be made by any competent legal authority.

* * * * *

Limitation of actions.

XVII. If any action or suit shall be commenced or brought against any person for anything done in pursuance of this Act, the same shall be commenced within six calendar months next after the cause of action accrued; and the defendant in every such action or suit may, at his election, plead the matter specially, or the general issue not guilty, and give this Act and the special matter in evidence at any trial to be had thereupon.

Offences against this Act.

XVIII. Any person offending against the provisions of this Act in England or Ireland, shall be deemed and taken to be guilty of a misdemeanor, and, being duly convicted thereof, shall be punished by imprisonment for a term not exceeding three months, or by a fine not exceeding fifty pounds, at the discretion of the court before which he shall be tried; * * *

XIX. And in order to remove doubts as to the meaning of certain words in this Act, be it enacted, that the words “person and party” shall be respectively deemed to include any number of persons, or any society, whether by charter or otherwise; and that the meaning of the aforesaid words shall not be restricted, although the same may be subsequently referred to in the singular number and masculine gender only.

Interpretation
of certain
words in this
Act.

* * * * *

3 & 4 WILL. IV. CHAP. 30.

AN ACT to exempt from Poor and Church Rates all Churches, Chapels, and other Places of Religious Worship.

[24th July, 1833.]

“WHEREAS it is expedient that churches, chapels, and other places exclusively appropriated to public religious worship should be exempt from the payment of poor and church rates:” Be it therefore enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the first day of October one thousand eight hundred and thirty-three, no person or persons shall be rated or shall be liable to be rated, or to pay to any church or poor rates or cesses, for or in respect of any churches, district churches, chapels, meeting houses, or premises, or such part thereof, as shall be exclusively appropriated to public religious worship, and which (other than churches, district churches, and episcopal chapels of the established church) shall be duly certified for the performance of such religious worship, according to the provision of any Act or Acts now in force (a): Provided always, that no person

No persons
liable to be
rated for
places exclu-
sively appro-
priated to
public reli-
gious worship.

(a) See 43 Eliz. c. 2, s. 1; 17 c. 48; 6 & 7 Vict. c. 36; and 19 & 20 Geo. 2. c. 37; 6 & 7 Will. 4, c. 96; Vict. c. 104. 3 & 4 Vict. c. 89; 4 & 5 Vict.

WHAT CHAPELS WERE FORMERLY RATEABLE.

A preacher who was rated as an occupier of a meeting house, was held not rateable, for he was no more chargeable as an occupier than any of his audience: *Rex v. St. Thomas in Southwark*, Str. 745.

*Decisions with
reference to 3
& 4 Will. 4,
c. 30, s. 1.*

A private building used as a chapel, and by contract never to be used for any other purpose, was rateable if a profit was made out of it: *Robson v. Hyde*, Cald. 310.

The trustees of a quaker’s meeting house, of which no profit was made by the pews, &c. were held not rateable: *Rex v. Woodward*, 5 T. R. 79; *Rex v. Sculcoates*, 12 East, 40.

The trustees of a methodist chapel receiving money for pew rents, were held rateable for the profits made of the building, though they expended all in repairs, salaries, &c.: *Rex v. Agar*, 14 East, 256.

Proviso
respecting
places not so
exclusively
appropriated.

or persons shall be hereby exempted from any such rates or cesses for or in respect of any parts of such churches, district churches, chapels, meeting houses, or other premises which are not so exclusively appropriated, and from which parts not so exclusively appropriated such person or persons shall receive any rent or rents, or shall derive profit or advantage.

Persons not
liable because
part of
premises used
for schools.

II. Provided always, that no person or persons shall be liable to any such rates or cesses because the said churches, district churches, chapels, meeting houses, or other premises, or any vestry-rooms belonging thereto, or any part thereof, may be used for Sunday or infant schools, or for the charitable education of the poor (a).

3 & 4 WILL. IV. CHAP. 42.

AN ACT for the further Amendment of the Law, and the better Advancement of Justice.

[14th August, 1833.]

* * * * *

Submission to
arbitration by
rule of court,
&c. not to be
revocable
without leave
of the court.

XXXIX. "And whereas it is expedient to render references to arbitration more effectual ;" Be it further enacted, that the power and authority of any arbitrator or umpire appointed by or in pursuance of any rule of court, or judges' order, or order of nisi prius, in any action now brought or which shall be hereafter brought, or by or in pursuance of any submission to reference containing an agreement that such submission shall be made a rule of any of His Majesty's courts of record, shall not be revocable by any party to such reference without the leave of the court by which such rule or order shall be made, or which shall be mentioned in such submission, or by leave of a judge ; and the arbitrator or umpire shall and may and is hereby required to proceed with the reference notwithstanding any such revocation, and to make such award, although the person making such revocation shall not afterwards attend the reference ; and that the court or any judge thereof may from time to time enlarge the term for any such arbitrator making his award (b).

Power to com-
pel the atten-
dance of wit-
nesses.

XL. When any reference shall have been made by any such rule or order as aforesaid, or by any submission containing such agreement as aforesaid, it shall be lawful for the court by which such rule or order shall be made, or which shall be mentioned in such agreement, or for any judge, by rule or order to be made for that purpose, to command the attendance and examination of any person to be named, or the production of any documents to be mentioned in such rule or order ; and the

(a) See 32 & 33 Vict. c. 40, ss. 1, 2.

(b) See 12 & 13 Vict. c. 45, s. 15.

disobedience to any such rule or order shall be deemed a contempt of court, if, in addition to the service of such rule or order, an appointment of the time and place of attendance in obedience thereto, signed by one at least of the arbitrators, or by the umpire, before whom the attendance is required, shall also be served either together with or after the service of such rule or order: Provided always, that every person whose attendance shall be so required shall be entitled to the like conduct money, and payment of expenses, and for loss of time, as for and upon attendance at any trial: Provided also, that the application made to such court or judge for such rule or order shall set forth the county where such witness is residing at the time, or satisfy such court or judge that such person cannot be found: Provided also, that no person shall be compelled to produce, under any such rule or order, any writing or other document that he would not be compelled to produce at a trial, or to attend at more than two consecutive days, to be named in such order.

XLI. When in any rule or order of reference, or in any submission to arbitration containing an agreement that the submission shall be made a rule of court, it shall be ordered or agreed that the witnesses upon such reference shall be examined upon oath, it shall be lawful for the arbitrator or umpire, or any one arbitrator, and he or they are hereby authorized and required, to administer an oath to such witnesses, or to take their affirmation in cases where affirmation is allowed by law instead of oath; and if upon such oath or affirmation any person making the same shall wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and shall be prosecuted and punished accordingly.

Power for the arbitrators under a rule of court to administer an oath.

* * * * *

3 & 4 WILL. IV., CHAP. 63.

AN ACT to render valid Indentures of Apprenticeship allowed only by two Justices acting for the County in which the Parish from which such Apprentices shall be bound, and for the County in which the Parish into which such Apprentices shall be bound shall be situated; and also for remedying defective Executions of Indentures by Corporations.

[28th August, 1833.]

“ WHEREAS by an Act passed in the fifty-sixth year of the reign 56 Geo. 3, of His late Majesty King George the Third, intituled, ‘ An c. 139. Act to regulate the Binding of Parish Apprentices (c),’ it is amongst other things enacted, that in all cases where the resi-

(c) See 56 Geo. 3, c. 139, s. 2.

dence or establishment of business of the person or persons to whom any child shall be bound shall be within a different county or jurisdiction of the peace from that within which the place by the officers whereof such child shall be bound shall be situated, and in all other cases where the justices of the peace for the district or place within which the place by the officers whereof such child shall be bound shall be situated, and who shall sign the allowance of the indenture by which such child shall be bound, shall not have jurisdiction, every indenture, by which such child shall be bound, at any time after the first day of October therein mentioned, shall be allowed, as well by two justices of the peace for the county or district within which the place by the officers of which such child shall be bound shall be situated, as by two justices of the peace for the county or district within which the place shall be situated wherein such child shall be intended to serve ; Provided always, that no indenture shall be allowed by any justice of the peace for the county into which such child shall be bound, who shall be engaged in the same business, employment, or manufacture in which the person to whom such child shall be bound is engaged ; and notice shall be given to the overseers of the poor of the parish or place in which such child shall be intended to serve an apprenticeship, before any justice of the peace for the county or district within such parish or place shall be shall allow such indenture, and such notice shall be proved before such justice shall sign such indenture, unless one of such overseers shall attend such justice and admit such notice : And whereas, in many instances, petty sessions are held weekly in market towns near adjoining the borders of the county in which such market towns are situate, and the justices holding such petty sessions act as well for the county adjoining as for the county where such petty sessions are held, and transact the business for large districts in both counties at such weekly petty sessions on market days, to the great advantage, convenience, and saving of expence to the several parishes and villages whose officers have to attend such petty sessions : And whereas since the passing of the said Act of the fifty-sixth year of the reign of His late Majesty King George the Third, numerous indentures of apprenticeship have been allowed by two justices attending and acting at such petty sessions for the county within which the place by the officers whereof such child shall be bound is situated, and by the same two justices acting also as justices for the county within which the place is situated wherein such child shall be intended to serve, such justices conceiving that, as they were acting justices for both counties, they were entitled to allow such indenture accordingly : And whereas doubts have lately arisen whether the allowances of such two justices, although they act as justices for both counties, are valid and effectual, or whether it is not necessary that such indentures should be allowed by four justices, two acting for one county, and two for the other only ; and the settlement of the numerous

persons who have already served and are now serving under indentures allowed by two justices acting for both counties in manner aforesaid will be set aside to their manifest injury ;” Be it therefore enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this Act all indentures for the binding of parish apprentices which have been previous to the passing of this Act allowed, and shall hereafter be allowed, by two justices of the peace acting as well for the county or district within which the place by the officers of which such child shall be bound shall be situated, as for the county or district within which the place shall be situated wherein such child shall be intended to serve, shall be deemed and taken to be as good, valid, and effectual, to all intents and purposes, as if the same had been allowed by two justices of the peace acting only for the county or district in which the place from which such child shall be bound is situated, and also by two other justices of the peace acting only for the county or district within which the place shall be situated in which such child shall be intended to serve (a).

Indentures allowed by justices acting for two counties to be as valid as if granted by justices acting for different counties.

II. “And whereas, by divers Acts of parliament heretofore made and passed, the directors, guardians, acting guardians, or other officers of incorporated hundreds, parishes, and other districts are by the said Acts of parliament respectively authorized to bind poor children apprentices in the manner by the said Acts of parliament respectively prescribed and directed ; And whereas the said directors, guardians, acting guardians, and other officers have bound out poor children apprentices by indentures to which the said directors, guardians, acting guardians, and other officers have been, by their description as directors, guardians, acting guardians, or other officers of such incorporated hundreds, parishes, and other districts respectively, made parties of the one part, or to which they have, by their said descriptions respectively, been binding parties, and which indentures have been executed by the said directors, guardians, acting guardians, and other officers by affixing thereto the seal of the corporation of which they are directors, guardians, acting guardians, and officers respectively, and in no other manner by them : And whereas doubts have been entertained as to the

(a) See 4 & 5 Will. 4, c. 76, s. 1 ; and 7 & 8 Vict. c. 101, ss. 12, 13.

SETTLEMENT—APPRENTICESHIP.

The guardians of the Isle of Wight, or any five of them, were to bind out pauper apprentices under their local Act ; and, in pursuance of the Act, an indenture of apprenticeship was entered into between the guardians of the one part and the apprentice’s mistress, and the corporate seal was affixed to the indenture. It was objected that the Act did not enable the guardians to bind the apprentice in their corporate capacity, but only in their individual capacity ; but it was held that the 3 & 4 Will. 4, c. 63, s. 2, rendered the indenture valid : *Reg v. Isle of Wight Guardians*, 10 L. T. (N. s.) 370.

Decision on
sect. 2.

Indentures with seal of corporations annexed to be valid.

effect and validity of indentures so executed ; and it is desirable to remove such doubts ;” Be it declared and enacted, that from and after the passing of this Act, in all cases where any indentures for the binding out of poor children apprentices have been heretofore or shall be hereafter executed by any directors, guardians, acting guardians, or other officers of any hundreds, parishes, or other districts now incorporated or hereafter to be incorporated under and by virtue of any Act of parliament, by affixing thereto the seal of the corporation of which they are or shall be directors, guardians, acting guardians, or other officers respectively, such execution of the said indentures respectively shall be deemed and taken to be a good, valid, and effectual execution of the said indentures respectively by the said directors, guardians, acting guardians, or other officers of such incorporated hundred, parishes, or other districts respectively.

Indentures to be allowed by two justices, one of them acting for the county and one for the city, &c.

III. “ And whereas it is expedient that justices of the peace in every city, borough, or town corporate should have concurrent jurisdiction with county magistrates in apprenticing any child or children within the limits of such city, borough, or town corporate ;” Be it therefore enacted that from and after the passing of this Act every indenture for the binding of parish apprentices within any city, borough, or town corporate shall be allowed by two justices of the peace, one of such justices acting for and on behalf of the county, and the other of such justices acting for and on behalf of the city, borough, or town corporate within the limits of which such child shall (a) be bound.

This Act not to set aside decisions already come to.

IV. Provided always, that nothing in this Act contained shall be construed to effect or set aside any decision or judgment made or given in any court of judicature respecting any such indentures.

3 & 4 WILL. IV. CHAP. 90.

AN ACT to repeal an Act of the Eleventh Year of His late Majesty King George the Fourth, for the Lighting and Watching of Parishes in England and Wales, and to make other Provisions in lieu thereof (b).

[28th August, 1833.]

11 Geo. IV.
c. 27.

“ WHEREAS an Act was passed in the eleventh year of the reign of His late Majesty King George the Fourth, intituled ‘ An Act to make Provision for the Lighting and Watching of Parishes in England and Wales : ’ And whereas doubts have arisen as to the construction of some of the provisions

(a) See 7 & 8 Vict. c. 101, s. 12. see also 3 & 4 Vict. c. 88 ; and 14

(b) See 8 & 9 Vict. c. 110, ss. 4, 6 ; & 15 Vict. c. 50.

of the said Act, and it is expedient that the said Act should be repealed, and that other provisions should be substituted in lieu thereof." Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this Act the said Act passed in the eleventh year of the reign of His said late Majesty King George the Fourth shall be and the same is hereby repealed.

* * * * *

IV. "And whereas it is desirable to make provision for the lighting and watching of the several parishes in England and Wales;" Be it enacted, that this Act, and the several provisions thereof, shall apply to and may be adopted, under and subject to the regulations herein contained, by all or any or either of the parishes in England and Wales.

V. From and after the passing of this Act, upon the application in writing of three or more of the ratepayers of any parish, it shall be lawful for the churchwardens thereof, and they are hereby required, within ten days after the receipt of such application as aforesaid, to appoint and notify a time and place for a public meeting of the ratepayers of the said parish, for the purpose of determining whether the provisions in this Act contained shall be adopted and carried into execution in the said parish: Provided always, that the time appointed for holding the said meeting shall not be less than ten days and not more than twenty-one days from the time of the said application so being delivered to them as aforesaid, and that notification of the time and place of meeting shall be made by forthwith affixing a notice on the principal outer door of every parish church or chapel situate within such parish, or on the usual place of affixing notices relating to the parochial affairs of any such parish, and also by publication of the same in the parish church or chapel on the Sunday previous to the day appointed for holding such meeting, during or immediately after divine service.

VI. Such person as may be elected by the ratepayers present shall preside as chairman at such meetings; and if any controversy shall arise at any such meeting as to the qualification or right of voting or eligibility of any person claiming to vote, or as to the qualification or eligibility of any

Recited Act repealed.

Act applicable to all parishes.

On application of three rated inhabitants, churchwardens to convene a meeting in vestry to determine whether the provisions of this Act shall be adopted.

Chairman to be elected, who shall determine any controversies.

VOTING OF RATEPAYERS.

Where thirty-seven ratepayers attended the meeting, twenty voted for adoption, and the remainder abstained from voting, and took no part in the proceedings; it was held that the Act was not legally adopted, and that the objection was not answered by the inspectors having acted for a year under the Act: *Eynsham case*, 18 L. J. Q. B. 210; 12 Q. B. 398.

A town council cannot renounce the Watching and Lighting Act after they have adopted it in the borough: *Quick v. St. Ives*, 2 L. T. (N. S.) 214.

Decisions on sect. 5.

candidate, such controversy shall be determined by the chairman presiding at such meeting.

Chairman to read requisition, and require persons to determine if Act shall be adopted.

VII. The chairman who shall preside at any meeting assembled as herein directed shall read or cause to be read the requisition whereupon the meeting shall have been summoned, and shall require the persons assembled thereat to determine by majority of votes as herein mentioned, whether the provisions of this Act, as herein set forth, shall or shall not be adopted and acted upon within such parish: Provided nevertheless, that it shall be lawful for the majority of the ratepayers present to adjourn such meeting from time to time.

If meeting determine to proceed, the provisions of this Act shall thenceforth take effect.

VIII. If at any such meeting it shall be determined by a majority consisting of two-thirds of the votes of the ratepayers present at such meeting that the provisions of this Act shall be adopted, then and in such case such provisions shall from thenceforth take effect and come into operation in such parish; and it shall forthwith be determined that a certain number not being more than twelve nor less than three inspectors shall be elected to carry such purposes into effect; and the number of inspectors so determined upon shall be elected in manner herein mentioned.

Inhabitants to fix amount of money to be raised.

IX. The ratepayers of such parish shall at their first meeting, or at some adjournment thereof, and so on from time to time in every succeeding year, at a meeting to be called for that purpose in manner herein directed, fix and determine the total amount of money which the inspectors shall have power to call for in any one year, in order to carry into effect the provisions of this Act, such sum to be raised in the manner herein directed, upon the full and fair annual value of all property rateable for the relief of the poor within such parish, such full and fair annual value to be computed according to the last valuation for the time being acted upon in assessing the poor's rate for the said parish: Provided nevertheless, that any five rated inhabitants, qualified to vote as herein mentioned, may, at such meeting or adjournment thereof, in writing given to the chairman of the said meeting, demand a poll to be taken of the ratepayers qualified to vote upon the question as to whether this Act and the provisions thereof, or any part thereof, shall be adopted in such parish, and also as to the amount of money to be raised in the succeeding year for the purposes thereof, and the number of inspectors to be elected as determined at such meeting, and which said demand of a poll the said chairman is required forthwith to deliver to the churchwardens of the said parish.

Poll may be demanded as to adoption of Act.

Notice of poll to be

X. The said churchwardens of the said parish shall, on the first Sunday next after the receipt of such demand of a poll,

CHAIRMAN OF MEETING.

Decision on sect. 6.

The chairman of the meeting at which a lighting rate is made, need not himself be a ratepayer: *Reg. v. Middlesex JJ.*, 17 Jur. 187; 22 L. J. M. C. 106.

affix or cause to be affixed a notice on the principal outer door of every parish church or chapel situate within such parish, or on the usual place of affixing notices relating to parochial affairs of any such parish, specifying some day, not earlier than ten days and not later than twenty-one days after such Sunday, and at what place or places within the said parish, the rate-payers are required to signify their votes for or against the adoption of this Act, or such part thereof as may have been agreed upon at the said meeting, as well as with respect to the annual amount of money to be raised in the succeeding year for the purposes thereof, and the number of inspectors to be elected as determined at such meeting, which votes shall be received on two successive days, commencing at eight of the clock in the forenoon and ending at four of the clock in the afternoon of each day; and the said notice shall be to the following effect:

“THE churchwardens of this parish [*insert the name of the parish*] having received a demand for a poll, duly signed according to the provisions of an Act of the fourth year of the reign of King William the Fourth, entitled ‘An Act, &c.’ [*setting out the title of the Act*], the rate-payers of this parish of [*insert the name of the parish*] are hereby required, all and each of them, on the _____ day of _____ next, and the following day, to signify to the said churchwardens, by a declaration, either printed or written, or partly printed or partly written, addressed and delivered to one of the churchwardens at [*insert here the place*], their votes for or against the adoption of the aforesaid Act, or so much thereof as relates to watching or lighting [*as the case may be*], the amount of the money to be raised in the succeeding year for the purposes thereof, being [*here insert the sum agreed on at the meeting*], and the number of inspectors to be elected [*insert the number also agreed on*], such sum and such number of inspectors being fixed and determined upon at a meeting of the rate-payers called pursuant to the said Act. “(Signed)
“ Churchwardens.”

XI. The said declaration shall be to the following effect:

“I, A. B. of _____ street [*or* _____ place *or* house] in this parish of _____ vote [*for or against, as the case may be*], the adoption of the Act of the fourth year of the reign of His Majesty King William the Fourth, intituled ‘An Act, &c.’ [*set out title of the Act*], or so much thereof as relates to watching or lighting [*as in the notice*], the amount of the money to be raised in the succeeding year for the purposes thereof, being [*as in notice*], and the number of inspectors to be elected _____ [*as in notice*].”

XII. The said churchwardens shall carefully examine the votes to them delivered as aforesaid, and shall compare them with the last rate made for the relief the poor of the said parish, and shall be empowered to call before them and examine any

given by
churchwar-
dens.

Form of
notice.

Form of
declaration.

Churchwar-
dens to exa-
mine the votes
and declare
whether two-

thirds of them
are in favour
of adopting
this Act.

parish officer touching the said votes, or any rate-payer so giving his vote, and after a full and fair summing-up of the said votes shall, by public notice according to the form and manner hereafter prescribed, declare whether or not two-thirds of the votes given have been given in favour of the adoption of the said Act (or so much thereof as relates to watching or lighting, as in the notice), and also as to the sum of money to be raised in the succeeding year, and the number of inspectors to be elected to be (as in the notice): Provided always, that the whole number of persons voting shall be a clear majority of the rate-payers of the parish: Provided also, that in case of a poll being demanded as aforesaid, the adoption or non-adoption of this Act, with the sum to be raised and the number of inspectors to be elected as aforesaid, shall be decided by such number of votes as aforesaid: Provided also, that the expences incurred by the churchwardens in calling such meeting, giving the notices as aforesaid, and in taking such poll, shall be paid out of the rate collected for the relief of the poor in the said parish.

Ratepayers
may inspect
votes.

XIII. Provided always, that any of the rate-payers of the aforesaid parish, not exceeding five together, may inspect, at or in the vestry-room or in some convenient place within the same parish, and they are hereby empowered to inspect, the votes so given for and against the adoption of this Act, with the sum to be raised, and number of inspectors to be elected as aforesaid, at all seasonable times within one month after such notice shall have been given; and the churchwardens of the said parish are hereby required carefully to preserve the said votes, and freely to permit and allow the examination thereof by the aforesaid rate-payers of the said parish at all seasonable times within the period aforesaid.

No person to
vote unless he
has been rated
one year.

XIV. No person shall be deemed a ratepayer, or be entitled to vote, or do any other act, matter, or thing as such, under the provisions of this Act, unless he or she shall have been rated to the relief of the poor for the whole year immediately preceding his so voting or otherwise acting as such rate-payer, and shall have paid all the parochial rates, taxes, and assessments due from him or her at the time of so voting or acting, except such as have been made or become due within the six months immediately preceding such voting.

Notice of
adoption of
this Act.

XV. Notice of the adoption of this Act (or any part thereof, specifying it), with the amount of the sum to be raised in the succeeding year, and the number of inspectors to be elected by any parish, shall be forthwith given by the churchwardens for the time being of the said parish by affixing a notice of the same to the principal door of every church and chapel within

DISQUALIFICATION OF RATEPAYERS.

*Decision on
sect. 14.*

Ratepayers who have not paid the lighting rate of a preceding year are disqualified from voting by section 14 of 3 & 4 Will. 4, c. 90: *Reg. v. Middlesex J. J.*, 22 L. J. M. C. 106; 17 Jur. 187.

the said parish, or on the usual place of affixing notices relating to the parochial affairs of such parish; and in such case the provisions of this Act shall from thenceforth take effect and come into operation in such parish: Provided always, that it shall be lawful for the inhabitants present at any meeting called in manner herein directed, at any time after the expiration of three years from the time when the provisions of this Act shall have been adopted, to determine that the provisions of this Act shall, from and after a day to be fixed upon at such meeting, cease to be acted upon; in which case, from and after such last-mentioned day, the provisions of this Act shall no longer be in force in such parish: Provided nevertheless, that the provisions in this Act contained shall remain and continue in force for the purpose of collecting and recovering any rate which may have been previously made; and if on the abandonment and ceasing to act upon the provisions of this Act there shall be any balance in the hands of the said inspectors, after defraying the expences incurred in carrying into effect the provisions of this Act, the said balance shall be paid over to the overseers of the poor of the said parish, to be applied in aid of the poor rates of said parish.

Act may be
abandoned.

XVI. In case any such meeting convened as aforesaid, or, in case of a poll having been demanded as aforesaid, a majority of two-thirds of the votes as aforesaid, shall not have determined to adopt the provisions of this Act, it shall not be lawful for the inhabitants to meet again in less than one year from the period at which such meeting shall have been so convened as aforesaid.

If meeting
determine
against adopt-
ing this Act.

* * * * *

ADOPTION OF ACT BY PART OF PARISH.

A meeting of ratepayers was held on the 11th of November, 1853, to consider whether the parish should adopt the provisions of the Lighting and Watching Act, when two-thirds of those present, as required by sect. 8 did not adopt the Act. On the 1st of December following, another meeting was called of those ratepayers who lived within a radius of half-a-mile from the market, being the town portion of the parish. At that meeting the Act was adopted by a majority of two-thirds of the persons present, and thereupon a rate was duly assessed upon S., who lived within the town district. This rate was paid, but on a second rate being made he refused to pay. S. objected that the meeting at which the Act had been adopted was illegal, because by sect. 16 no second meeting for the adoption of the Act could be held within twelve months from the first. The justices held that the persons convened to both meetings were substantially the same, and that the meetings held on the 11th of November and 1st of December were substantially the same; that the second meeting being held within twelve months of the first was contrary to the Act and void, and dismissed the summons. Held, that as the right question of fact had been propounded to the justices and determined by them, the court could not interfere with their decision, although they might have taken the question in a wrong sense.—*Semble*, the payment of one rate did not estop S. from objecting to another rate: *Reg. v. Sussex JJ.*, 3 Jur. (N. s.) 341; 26 L. J. M. C. 74; 6 E. & B. 220; 21 J. P. 565.

*Decision on
sect. 16.*

At the end of twelve months, the inspectors to give notice that they are ready to produce their accounts, and churchwardens to call a meeting.

Meetings in future years.

Inspectors to issue an order for payment of money for purposes of this Act.

Power to collect rates.

XVIII. In every parish adopting the provisions of this Act the inspectors shall, within one month next after the expiration of twelve calendar months from the day of such adoption, give notice to the churchwardens of the said parish that they are ready to produce their accounts and vouchers for the previous year, and thereupon the said churchwardens shall give due notice, in the manner required with respect to the first meeting to be held under this Act, that a meeting of the ratepayers of the said parish will be held at an hour and place in the said notice to be mentioned, on some day, not being a Sunday, within ten days from the receipt of such notice, for the purpose of the said inspectors producing such accounts and vouchers, and for the election of inspectors for the execution of this Act, and for determining the amount of the money to be raised for the purposes of this Act, for the current year; and in every future year such meeting shall, for the purposes aforesaid, be held on the same day in the corresponding month, except such day should fall on a Sunday, and then on the day following.

* * * * *

XXXII. As soon as the inspectors have been elected as aforesaid, it shall be lawful for them or any two or more of them, from time to time to issue an order under their hands to the overseers of the poor of any parish to which the provisions of this Act shall be extended, by which order they shall require the said overseers to levy the amount mentioned in the said order.

XXXIII. The overseers aforesaid shall, for the purpose of collecting, raising, and levying the rate necessary for the purposes of this Act, proceed in the same manner, and have the same powers, remedies and privileges, as for levying money for the relief of the poor in the said parish: Provided always, that owners and occupiers of houses, buildings, and property (other than land) rateable to the relief of the poor in any such parish, shall be rated at and pay a rate in the pound three times greater than that at which the owners and occupiers of land shall be rated at and pay for the purposes of this Act: Provided also, that the total amount of the sum to be collected, raised, and levied for the purposes of this Act within any one year shall not exceed such sum as shall have been agreed on by the inhabitants of the said parish as aforesaid, and that the said sum shall be assessed upon the full and fair annual value to which

VOTING OF RATEPAYERS.

Decision on sect. 18.

Where the parish have adopted the Act, a majority of two-thirds of a meeting is not necessary in order to determine the amount to be raised in a subsequent year; under sect. 18, the resolution of a simple majority of the ratepayers voting at the meeting called for that purpose, or in case of a poll of the ratepayers voting upon it is sufficient: *Beechy v. Quentery*, 10 M. & W. 65.

lands, houses, buildings, and other property within the said parish shall be rated or shall be rateable according to the last valuation made and acted upon for the rate for the relief of the poor within the said parish.

XXXIV. Provided always, that it shall be lawful for the Land and overseers of the poor of any such parish, and they are hereby houses to be required, whenever, according to the rate made for the relief of rated separately. the poor, one and the same person shall be rated in one sum in respect of land, and also of houses, buildings, and other property, to cause such land, and also such houses, buildings,

LIGHTING AND WATCHING RATE.

Where a parish had adopted 13 & 14 Vict. c. 99, the owners of small tenements were the proper persons to be rated under 3 & 4 Will. 4, c. 90, when adopted in the parish: *Reg. v. Oxfordshire JJ.*, 22 L. T. 219. *Decisions on sect. 33.*

The meaning intended by "three times greater" was three times as great, that is, that land should pay in the ratio of one-fourth of the rate. Erle, J.—You say that $4\frac{1}{2}d.$ is not a sum three times greater than $1\frac{1}{2}d.$ Coleridge.—If $4\frac{1}{2}d.$ is three times greater than $1\frac{1}{2}d.$, then $3d.$ is two times greater than $1\frac{1}{2}d.$, and consequently $1\frac{1}{2}d.$ is one time greater than $1\frac{1}{2}d.$ What was intended was, that the property other than land should pay one-fourth as much as is paid for land. Erle, J.—No; that it should pay in the ratio of one-fourth of the rate; and so it does if land pays $4\frac{1}{2}d.$ and the other property $1\frac{1}{2}d.$ the whole rate being treated as $6d.$ Lord Campbell, C. J.—That is so. The meaning intended was three times as great: *Reg. v. Somersetshire JJ.*, 22 J. P. (N.) 431.

Appellants were occupiers of certain docks covering an area of 165 acres, 95 of which formed a wet dock or tidal basin: Held that such dock or basin was property *ejusdem generis* with the houses and buildings mentioned in the Act, and therefore that the appellants were rateable at the higher amount: *Reg. v. Peto*, 5 Jur. (N. S.) 1209; 33 L. T. 235; 28 L. J. M. C. 240.

A *mandamus* having been applied for against justices to issue a distress warrant against churchwardens and overseers for not paying over a balance of a rate levied under the Lighting and Watching Act, it was held, 1. That churchwardens being *ex-officio* overseers must be included in a distress warrant against the overseers under that Act, though in point of fact part of the parish was divided from the rest, and had separate overseers. 2. It is no objection to such an application that the rate did not, on the face of it, state that it was for a sum not exceeding $6d.$ in the pound: *Reg. v. Banks*, 29 J. P. 421.

The 3 & 4 Will 4, c. 90, so far as related to lighting, having been adopted by part of a parish, a rate was made on the whole of the parish, but the names only of persons liable to be rated in the part of the parish adopting the Act were inserted in the rate. It was held, that as the rate purported to be a rate for the whole parish, and as there was no power given by the Act to make such a rate, the rate was a nullity; and that a fresh rate could be made for the same purpose the first was intended for without quashing the first: *Potton v. Brown*, 10 L. T. (N. S.) 525.

Masonry works in and about a canal are mere accessories to the canal, and the whole construction is "land" simply, and as such therefore liable only to the lower rate: *Neath Canal Navigation Company v. Neath*, 24 L. T. (N. S.) 871; S. C. *Reg. v. Neath Canal Navigation*, 40 L. J. M. C. 193; *Reg. v. Neath*, L. R. 6 Q. B. 707.

and other property, to be separately assessed, and the sum hereby authorized to be levied shall be assessed accordingly : Provided always, that every court-yard, yard, or garden (such garden not being a market garden or nursery ground) shall be included in and make part of the assessment to be made on the house, buildings, or other property to which they may be respectively attached : Provided also, that such land, houses, buildings, and other property shall not in the whole be assessed at a higher amount than they were in the last rate made for the relief of the poor within the said parish.

Power of succeeding overseers to collect rate.

XXXV. If the overseers of the poor of any parish adopting the provisions of this Act shall go out of office before they shall have collected or levied the amount mentioned in the order issued under the hands of the said inspectors in pursuance of this Act, they shall deliver to the succeeding overseers, within seven days from the time they go out of office, a full and particular account in writing of the names of the parties from whom any money may be due on account of the rate made in pursuance of this Act, as well as the last order issued to them by the said inspectors ; and in such case the succeeding overseers shall have the like powers and remedies under this Act for the collecting and recovering thereof, and shall be liable to the same penalties and forfeitures in case of the non-payment to the said inspectors, as their predecessors had or were liable to.

Overseers to pay amount to treasurer.

XXXVI. The overseers of the poor of every parish adopting the provisions of this Act, to whom any such order as aforesaid shall be issued, shall pay over the amount mentioned in such order to the treasurer to be appointed in the said parish under this Act within three calendar months from the delivery of such order to one of the overseers, and shall keep the accounts of the said rate levied for the purposes of this Act separate and distinct from the accounts of the rates levied in the same parish for the relief of the poor ; and at the time of making any payment to the said treasurer the said overseers shall deliver to him a note in writing signed by them, specifying the amount so paid, which note shall be kept by the treasurer as a voucher for his receipt of that particular amount ; and the receipt of the said treasurer, specifying the amount paid to him by the overseers, shall be a sufficient discharge to the overseers for such amount, and shall be allowed as such in passing their accounts with their respective parishes. (a)

Receipt of treasurer to be a discharge to overseers.

Where other persons are authorized to collect poor's rates, such persons to be deemed overseers.

XXXVII. Where any persons other than the overseers of the poor shall by virtue of any office or appointment be authorized and required to make and collect or cause to be collected the rate for the relief of the poor in any parish to which all or any of the provisions of this Act shall be extended, such persons, by whatsoever title they may be called, shall be deemed to be overseers of the poor within the meaning of this Act, and to

be included under and denoted by the words "overseers of the poor," for all the purposes of this Act, as fully as if they were commonly called or known by the title of overseers of the poor.

XXXVIII. In case the amount directed by such order as aforesaid to be paid by the overseers in any parish to which all or any of the provisions of this Act shall be extended shall not be paid to the said treasurer within the time specified for that purpose in the said order, any justice of the peace, upon complaint thereof made to him by the said treasurer or by any one of the inspectors, may and he is hereby authorized and required to issue a summons under his hand and seal for the said overseers so refusing or neglecting to pay such money as aforesaid to appear before two justices of the peace; and upon the said overseers appearing, or having been so summoned and not appearing, without some sufficient and reasonable excuse, or not being found, it shall be lawful for the said justices and they are hereby required, in case the said money is not paid, to issue their warrant for levying the amount, or so much thereof as may be in arrear, by distress and sale of the goods of all or any of the said overseers; and in case the goods of all the overseers shall not be sufficient to pay the same, the arrears thereof shall be added to the amount of the next levy which shall be directed to be made in such parish for the purposes of this Act, and shall be collected by the like method.

Overseers may be distrained upon for non-payment.

* * * * *

XLIV. It shall be lawful for the said inspectors from time to time to provide and keep up fire engines, with pipes and other utensils proper for the same, for the use of the parish adopting the provisions of this Act, and to provide a proper place or places for the keeping of the same, and to place such engines under the care of some proper person or persons, and to make him or them such allowance for his or their trouble as may be thought reasonable; and the expenses attending the providing and keeping of such engines shall be paid out of the money authorized to be received by the inspectors under the provisions of this Act.

Fire engines to be provided.

* * * * *

LVII. It shall and may be lawful to and for the said inspectors from time to time to enter into any contract or contracts with any person, company or companies whatsoever, for lighting the same streets, roads, and other places, or any of them, or any part thereof, either with oil or with gas, or with any other material or in any other manner whatsoever, or for furnishing lamps, lamp irons, lamp posts, watchboxes, posts, chains, pales, rails, and other things necessary for the purposes aforesaid, or any materials for the same, which contract or contracts shall specify the several works to be done and the prices to be paid for the same, and the time or times when the works shall be

Power for inspectors to contract for the works directed to be done by this Act.

completed, and the penalties to be suffered in cases of non-performance thereof, and shall be signed by two or more of the said inspectors, and also by the person or persons contracting to perform such works respectively, which contract or contracts, or a copy or copies thereof, shall be entered in a book to be kept for that purpose ; but no contract above the value or sum of twenty pounds shall be entered into, unless previous to the making of any such contract fourteen days' notice shall be given in one or more of the public newspapers published in the county in which the said parish shall be situate, expressing the intention of entering into such contract, in order that any person or persons willing to undertake the same may make proposals for that purpose, to be offered and presented to the said inspectors at a certain time and place in such notice to be mentioned : Provided always, that if the said inspectors shall be of opinion that it will not be advantageous to contract with the person or persons offering the lowest price, it shall be lawful for the said inspectors to contract with such other person or persons as they shall think proper.

* * * *

Parishes may
adopt only
parts of Act.

LXXI. The provisions of this Act may be adopted in any parish either as to lighting or as to watching, or as to lighting and watching, as may be deemed expedient ; and the provisions of this Act may be adopted in any parish so far as the same relate to lighting, although such parish shall be watched under or by virtue of any Act of parliament passed for that purpose, and may be adopted in any parish so far as the same relate to watching, although such parish shall be lighted under or by virtue of any Act of parliament passed for that purpose.

* * * *

Parts of
parishes may
adopt pro-
visions of this
Act ;

LXXIII. It shall and may be lawful to and for the inhabitants of part of any parish to hold a meeting of the inhabitants of such part, to be convened in manner herein directed, and to be composed of such inhabitants only, for the purpose of determining whether the provisions in this Act contained, or any of them, shall be adopted and carried into execution in such part of the said parish ; and all such meetings shall be subject and liable to all the clauses, regulations and restrictions in this Act contained in respect of meetings to be convened for the purposes thereof ; and the churchwardens of the said parish shall act in the same manner for such part of the parish the inhabitants of which may be desirous of adopting the provisions of this Act, for carrying the provisions of the same into effect, as they could by virtue hereof act for the parish at large ; and the overseers of the poor of the said parish, or of any township or division of the said parish, shall be amenable to the provisions of this Act, so far as they may relate to the part of such parish situate within or partly within the division or district for which such overseers shall act, for the purpose of levying, raising, and paying the rates within the part of such parish adopting the provisions of this Act, in the same manner

as they would be if the whole parish, township, or place for which they act had adopted the provisions of this Act: Provided always, that no proceedings of the said inhabitants, nor any rate to be raised or levied in pursuance of such proceedings, shall extend to any part of the said parish which may already be regulated by or under the provisions of any Act for the purposes in this Act mentioned, nor interfere with the powers and provisions of such Act or the execution thereof in any respect whatsoever.

* * * * *

LXXVII. Powers given to watch and light any parish shall be understood to be given to any wapentake, division, city, borough, liberty, township, market town, franchise, hamlet, tithing, precinct, and chapelry, or parts within the same; and that where the word "parish" is used, it shall be understood to extend to any parts within the same; and the powers given to a churchwarden shall be understood to be given to any chapelwarden, overseer, or other person usually calling any meeting on parochial business; and the words "justice of the peace" shall be understood to mean justices of the peace for the county, city, borough, town, division, riding, shire, liberty, or place in which the parish which may adopt the provisions of this Act shall be situate; and the word "ratepayer" to include all persons assessed to and paying rates for the relief of the poor.

* * * * *

4 & 5 WILL. IV. CHAP. 47.

AN ACT for Preventing the Interference of the Spring Assizes with the April Quarter Sessions (a).

"WHEREAS by an Act passed in the first year of the reign of His present Majesty, intituled 'An Act for the more effectual Administration of Justice in England and Wales,' it is directed, ^{1 Will. IV. c. 70.}

(a) See 54 Geo. 3, c. 84; 11 Geo. 4 & 1 Will. 4, c. 70, s. 35.

ADOPTION OF ACT.

It is competent for a part of a parish to meet and adopt the provisions of 3 & 4 Will. 4, c. 90, as far as that part is concerned, though a general meeting of the whole parish held within a year before rejected it, if the second meeting be not substantially the same as the first, and not a colourable evasion of the clause which prohibits the discussion of the question within a year after its rejection: *Wilkinson v. Gray*, 9 J. P. 71. *Decisions on sect. 73.*

Where a parish is divided into ecclesiastical districts the meeting must be called by the churchwardens of the parish at large, otherwise the adoption of the Act in the district will be illegal: *Reg. v. Staffordshire JJ.*, 23 L. T. 91; *S. C. Reg. v. Kingswinford*, 3 E. & B. 688; 23 L. J. Q. B. 337.

that the justices of the peace in every county, riding, or division for which quarter sessions of the peace ought by law to be held shall hold their general quarter sessions of the peace (among other times) in the first week after the twenty-eighth day of December, and in the first week after the thirty-first day of March : And whereas in some counties of England and Wales the time usually fixed for holding the spring assizes interferes with the due holding of the last-mentioned quarter sessions ; and although the justices of the peace have authority to hold general sessions of the peace at other times of the year besides those specified in the said recited Act, such sessions are not quarter sessions within the intent of various Acts of parliament which give jurisdiction to justices of the peace in their quarter sessions or in their general quarter sessions ; and for the purpose of preventing the inconvenience arising from such interference as aforesaid, it is expedient to allow the justices of the peace a discretion as to the time of holding their general quarter sessions, which they are now required to hold in the week next after the thirty-first day of March :” Be it therefore declared and enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that in every county, riding, or division for which general quarter sessions ought to be held, it shall be lawful for the justices assembled in their general quarter sessions in the week next after the twenty-eighth day of December in every year, to name (if they shall see occasion so to do) two justices of the peace who shall be empowered as soon as may be after the time for holding the spring assizes shall be appointed, to fix the day for holding the next general quarter sessions of the peace for such county, riding, or division, so as such time shall not be earlier than the seventh day of March nor later than the twenty-second day of April, and to give notice of the day so fixed by advertisement in such newspapers as shall be directed by the justices so assembled ; and in every such case the general quarter sessions held on the day so fixed and notified shall be valid, and it shall not be necessary to hold any sessions of the peace for such county, riding, or division in the week next after the thirty-first day of March, anything in the said recited Act to the contrary notwithstanding : Provided always, that in every county, riding, and division where no other day shall be fixed in the manner hereinbefore mentioned, the justices of the peace shall hold their general quarter sessions of the peace in the week next after the thirty-first day of March, as by the said recited Act they are required.

Justices at Epiphany sessions may name two of their body to fix the day for holding the next general quarter sessions.

Proviso.

4 & 5 WILL. IV. CHAP. 76.

AN ACT for the Amendment and better Administration of the Laws relating to the Poor in England and Wales (a).

[14th August, 1834.]

“ WHEREAS it is expedient to alter and amend the laws relating to the relief of poor persons in England and Wales ;” Be it therefore enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that it shall be lawful for His Majesty, his heirs and successors, by warrant under the royal sign manual, to appoint three fit persons to be commissioners to carry this Act into execution, and also from time to time, at pleasure, to remove any of the commissioners for the time being, and upon every or any vacancy in the said number of commissioners, either by removal or by death, or otherwise, to appoint some other fit person to the said office ; and until such appointment it shall be lawful for the surviving or continuing commissioners or commissioner to act as if no such vacancy had occurred (b).

II. The said commissioners shall be styled “ The Poor Law Commissioners for England and Wales ;” (c) and the said commissioners or any two of them, may sit, from time to time as they deem expedient, as a board of commissioners for carrying this Act into execution (d) ; and the said commissioners acting as such board shall be and are hereby empowered by summons under their hands and seal, to require the attendance of all such persons as they may think fit to call before them upon any question or matter connected with or relating to the administration of the laws for the relief of the poor, and also to make any inquiries and require any answer or returns as to any such question or matter, and also to administer oaths, and examine all such persons upon oath, and to require and enforce the production upon oath of books, contracts, agreements, accounts, and writings, or copies thereof respectively, in anywise relating to any such question or matter ; or in lieu of requiring such oath as aforesaid, the said commissioners may, if they think fit, require any such person to make and subscribe a declaration of the truth of the matters respecting which he shall have been or shall be so examined : Provided always, that no such person shall be required, in obedience to any such summons, to go or travel more than ten miles from the place of his abode : Provided also, that nothing herein contained shall extend or be deemed to extend to authorize or empower the said commissioners to act as a court of record, or to require

Appointment and removal of commissioners.

Style of commissioners ;

who may sit as a board, with power to summon and examine witnesses and call for production of papers, on oath ;

or to substitute a declaration for an oath ;

but not to inquire into any title.

(a) See 30 & 31 Vict. c. 106, s. 30.

(c) See 12 & 13 Vict. c. 103, s. 21,

(b) See 10 & 11 Vict. c. 109, ss. and 34 & 35 Vict. c. 70.

(d) See 10 & 11 Vict. c. 109, s. 7.

the production of the title, or of any papers or writings relating to the title of any lands, tenements, or hereditaments not being the property of any parish or union (*a*).

To have a common seal.

Rules, &c. purporting to be sealed with such seal to be received as evidence.

III. The said commissioners shall cause to be made a seal of the said board (*b*), and shall cause to be sealed or stamped therewith all rules, orders, and regulations made by the said commissioners, in pursuance of this Act (*c*); and all such rules, orders, and regulations, or copies thereof, purporting to be sealed or stamped with the seal of the said board, shall be received as evidence of the same respectively, without any further proof thereof; and no such rule, order, or regulation, or copy thereof, shall be valid, or have any force or effect, unless the same shall be so sealed or stamped as aforesaid (*d*).

Commissioners to record their proceedings.

IV. The said commissioners shall make a record of their proceedings, in which shall be entered in writing a reference to every letter received, from whence, its date, the date of its reception, and the subject to which it relates, and a minute of every letter written, or order given by the said commissioners, whether in answer to such letters received or otherwise, with the date of the same, and a minute of the opinion of each of the members of the board of commissioners, in case they should finally differ in opinion upon any order to be given or other proceeding of the board (*e*); and such record shall be submitted to one of His Majesty's principal secretaries of state once in every year, or as often as he shall require the same.

Commissioners to make a general report to the secretary of state yearly;

V. The said commissioners shall, once in every year, submit to one of the principal secretaries of state, a general report of their proceedings; and every such general report shall be laid before both houses of parliament within six weeks after the receipt of the same by such principal secretary of state, if parliament be then sitting, or if parliament be not sitting, then within six weeks after the next meeting thereof (*e*).

and to report to secretary of state when required.

VI. The said commissioners shall from time to time, at such times as any one of His Majesty's principal secretaries of state shall direct, give to the principal secretary of state requiring the same such information respecting their proceedings, or any part thereof, as the said principal secretary of state shall require.

Power to appoint assistant commissioners, and to remove same.

VII. The said commissioners shall and they are hereby empowered from time to time to appoint such persons as they may think fit to be assistant commissioners for carrying this Act into execution, at such places and in such manner as the said commissioners may direct, and to remove such assistant commissioners, or any of them, at their discretion, and on

(*a*) See 10 & 11 Vict. c. 109, s. 11; and 34 & 35 Vict. c. 70. (*d*) See 10 & 11 Vict. c. 109, s. 12. (*e*) Id. s. 13; and 34 & 35 Vict. c. 70, s. 2.

(*b*) See 34 & 35 Vict. c. 70, s. 5. (*c*) 7 & 8 Vict. c. 101, s. 71; 10 & 11

Vict. c. 109, s. 5; and 31 & 32. Vict. c. 37.

every or any vacancy in the said office of assistant commissioner, by removal or by death or otherwise, to appoint, if they see fit, some other person to the said office; Provided always that it shall not be lawful for the said commissioners to appoint more than nine such assistant commissioners (*f*) to act at any one time, unless the lord high treasurer, or the commissioners of His Majesty's treasury for the time being, or any three or more of them, shall consent to the appointment of a greater number (*g*).

Not more than nine to be appointed without consent of treasury.

VIII. No commissioner or assistant commissioner appointed as aforesaid shall, during his continuance in such appointment, be capable of being elected or sitting as a member of the House of Commons (*h*).

Commissioners not to sit in parliament.

IX. The said commissioners may and they are hereby empowered from time to time to appoint a secretary, assistant secretary or secretaries, and all such clerks, messengers, and officers as they shall deem necessary, and from time to time, at the discretion of the said commissioners, to remove such secretary, assistant secretary or secretaries, clerks, messengers, and officers, or any of them, and to appoint others in their stead; Provided always, that the amount of the salaries of such secretary, assistant secretary or secretaries, clerks, messengers, and officers shall from time to time be regulated by the lord high treasurer, or the commissioners of His Majesty's treasury, or any three or more of them (*i*).

Commissioners to appoint secretary, assistant secretary or secretaries, clerks, and other officers.

X. No commissioner to be appointed by His Majesty, nor any assistant commissioner, secretary, or other officer or person to be appointed by the said commissioners, under and by virtue of the provisions of this Act, shall continue to hold his respective office or exercise any of the powers given by this Act for a longer period than five years next after the day of the passing of this Act, and thenceforth until the end of the then next session of parliament; and from and after the expiration of the said period of five years, and of the then next session of parliament, so much of this Act as enables His Majesty to appoint any commissioner or commissioners shall cease to operate or have any effect whatever (*k*).

Appointment of commissioners, &c. limited to five years.

(*f*) See 5 & 6 Vict. c. 57, s. 2.

(*k*) See 2 & 3 Vict. c. 83; 3 & 4

(*g*) See 10 & 11 Vict. c. 109, s. 19.

Vict. c. 42; 5 Vict. c. 10; 5 & 6

(*h*) Id. s. 9.

Vict. c. 57, s. 1; and 10 & 11 Vict.

(*i*) Id. ss. 6, 8.

c. 101, s. 28.

The following were the periods of duration of the Poor Law Commission :—

Note to sect. 10.

4 & 5 Will. 4, c. 76, till 14 August, 1839	} And thenceforth until the end of the then next session of parliament.
2 & 3 Vict. c. 83 " 1840	
3 & 4 Vict. c. 42 " 31 Decr. 1841	
5 Vict. c. 10 " 31 July 1842	
5 & 6 Vict. c. 57 " " 1847	

Commissioners and assistant commissioners to take oath.

XI. Every commissioner and assistant commissioner to be appointed from time to time as aforesaid shall, before he shall enter upon the execution of his office, take the following oath before one of the judges of His Majesty's Courts of King's Bench or Common Pleas, or one of the barons of the Court of Exchequer; (that is to say),

Form of oath.

"I A. B. do swear, that I will faithfully, impartially, and honestly, according to the best of my skill and judgment, execute and fulfil all the powers and duties of a commissioner [or assistant commissioner, *as the case may be*], under an Act passed in the fifth year of the reign of King William the Fourth, intituled [*here set forth the title of this Act*]."

Notification of appointment of commissioners to be sent to clerks of the peace, and published.

And the appointment of every such commissioner and assistant commissioner, together with the time when the judge or baron before whom he shall have taken the oath aforesaid, shall be forthwith published in the *London Gazette*; and a notification of such appointment and of the taking of such oath shall from time to time be sent, under the hands and seal of the said commissioners, to the clerk of the peace of every county in England and Wales, who shall and is hereby required as soon as

Note to sect. 10, ante, p. 535, continued.

Poor Law Commission.	Date of appointment.	Date of termination of office.	Terms of office:	
			Yrs.	Days.
POOR LAW COMMISSIONERS.				
The Right Hon. Sir Thomas Frankland Lewis, Bart. -	18 Aug. 1834.	23 Jan. 1839.	4	158
Sir John George Shaw Lefevre, K.C.B. - - -	18 Aug. 1834.	1 Dec. 1841.	7	105
Sir George Nicholls, K.C.B.	18 Aug. 1834.	17 Dec. 1847.	13	151
The Right Hon. Sir George Cornwall Lewis, Bart. -	24 Jan. 1839.	2 Aug. 1847.	8	190
The Right Hon. Sir Edmund Walker Head, Bart. - -	2 Dec. 1841.	17 Dec. 1847.	6	15
SECRETARY.				
Edwin Chadwick, C.B. - -	18 Aug. 1834.	17 Dec. 1847.	13	151
ASSISTANT SECRETARIES.				
George Coode - - - - -	18 Aug. 1834	13 June, 1846.	11	299
Arthur Symonds - - - -	30 Nov. 1835.	9 April, 1836.	—	100
H. W. Parker - - - - -	9 April, 1836.	21 April, 1839.	3	12
W. G. Lumley, Q.C. - - -	23 April, 1839.	17 Dec. 1847.	8	238
Wm. Cunningham Glen - -	15 Feb. 1836.	17 Dec. 1847.	11	305

Similar particulars as regards the Poor Law Board and Local Government Board will be found in notes to 10 & 11 Vict. c. 109, s. 1, and 34 & 35 Vict. c. 70, s. 3, respectively.

conveniently may be to cause the same to be advertised once in some newspaper published or circulated in such county; and such notification as aforesaid shall be kept and preserved by such clerk of the peace with the records of such county.

XII. It shall be lawful for the said commissioners to delegate to their assistant commissioners, or to any of them, such of the powers and authorities hereby given to the said commissioners (except the powers to make general rules) as the said commissioners shall think fit; and the powers and authorities so delegated, and the delegation thereof, shall be notified in such manner, and such powers and authorities shall be exercised at such places, for such periods, and under such circumstances, and subject to such regulations as the said commissioners shall direct; and the said commissioners may at any time revoke, recall, alter, or vary all or any of the powers and authorities which shall be so delegated as aforesaid, and, notwithstanding the delegation thereof, may act as if no such delegation had been made; and the said assistant commissioners may and are hereby empowered to summon before them such persons as they may think necessary for the purpose of being examined upon oath (which oath such assistant commissioners are hereby empowered to administer) upon any question or matter relating to the poor or their relief, or for the purpose of producing and verifying upon oath any books, contracts, agreements, accounts, and writings, or copies of the same, in anywise relating to such question or matter, and not relating to or involving any question of title to any lands, tenements, or hereditaments not being the property of any parish or union, as such assistant commissioners may think fit, but so that no such person shall be required, in obedience to any such summons, to go or travel more than ten miles from the place of his abode (*b*); Provided nevertheless, that in lieu of requiring such oath as aforesaid the said assistant commissioners may, if they think fit, require such person to make and subscribe a declaration of the truth of the matters respecting which he shall have been or shall be so examined; and all summonses and orders made by any such assistant commissioner in pursuance or exercise of such delegated powers and authorities shall be obeyed, performed, and carried into effect by all persons as if such summons or order had been the summons or order of the said commissioners, and the breach, non-observance, or non-performance thereof shall be punishable in like manner (*c*).

Commissioners may delegate powers to assistant commissioners, and revoke them.

Assistant commissioners may summon persons and examine them upon oath; or a declaration may be substituted for an oath.

XIII. If any person upon any examination under the authority of this Act, shall wilfully and corruptly give false evidence, he shall be deemed guilty of perjury, and if any person shall make or subscribe a false declaration, he shall, on being convicted thereof, suffer the pains and penalties of perjury, and if any person shall wilfully refuse to attend in obedience to any summons of any commissioner or assistant commissioner, or to

Persons giving false evidence guilty of perjury.

Refusing to attend, &c.

guilty of
misdemeanor.

Reasonable
expenses of
witnesses to
be paid, and
by whom.

Administra-
tion of relief
to the poor
to be under
control of
the commis-
sioners; who
are to make
rules and
regulations
for the man-
agement of
the poor, and
administra-
tion of the
laws for
their relief,
&c.

give evidence, or shall wilfully alter, suppress, conceal, destroy, or refuse to produce any books, contracts, agreements, accounts, and writings, or copies of the same, which may be so required to be produced before the said commissioners or assistant commissioners, every person so offending shall be deemed guilty of a misdemeanor (*a*).

XIV. It shall be lawful for the said commissioners, in any case where they see fit, to order and allow such expenses of witnesses and of or attending the production of any books, contracts, agreements, accounts, or writings, or copies thereof, to or before the said commissioners or assistant commissioners, as such commissioners may deem reasonable, to be paid as follows; that is to say, out of the poor rates of the respective parish or union which in the opinion of the said commissioners shall be interested or concerned in such attendance or production respectively, in all cases in which such witnesses shall not go or travel more than ten miles from the respective parish or union which shall be interested or concerned as aforesaid, and in all other cases the expenses so ordered or allowed shall be deemed as part of the incidental expenses attending the execution of this Act, and be paid accordingly (*b*).

XV. From and after the passing of this Act the administration of relief to the poor throughout England and Wales, according to the existing laws, or such laws as shall be in force at the time being, shall be subject to the direction and control of the said commissioners (*c*), and for executing the powers given to them by this Act the said commissioners shall and are hereby authorized and required, from time to time as they shall see occasion, to make and issue all such rules, orders, and regulations (*d*), for the management of the poor, for the government of workhouses and the education of the children therein (*e*), and for the management of parish poor children under the provisions of an Act made and passed in the seventh year of the reign of His late Majesty King George the Third, intituled, "An Act for the better Regulation of Parish Poor Children of the several Parishes therein mentioned within the Bills of Mortality" (*f*), and the superintending, inspecting, and regulating of the houses wherein such poor children are kept and maintained, and for the apprenticing the children of poor persons (*g*) and for the guidance and control of all guardians, vestries, and parish officers, so far as relates to the management or relief of the poor, and the keeping, examining, auditing, and allowing of accounts (*h*), and making and entering into contracts in all matters relating to such management or relief, or to any expediture for the relief of the poor, and for carrying this Act into execution in all other respects, as they shall think proper;

(*a*) See 10 & 11 Vict. c. 109, s. 26.

(*b*) Id. s. 21.

(*c*) See 10 & 11 Vict. c. 109, s. 10.

(*d*) See 34 & 35 Vict. c. 70, s. 5.

(*e*) See 12 & 13 Vict. c. 13, s. 1.

(*f*) See 7 Geo. 3, c. 39, and 7 & 8 Vict. c. 101, s. 52.

(*g*) See s. 61.

(*h*) See 28 & 29 Vict. c. 79, s. 11.

and the said commissioners may, at their discretion, from time to time, suspend, alter, or rescind such rules, orders, and regulations, or any of them (i): Provided always, that nothing in this Act contained shall be construed as enabling the said commissioners or any of them to interfere in any individual case for the purpose of ordering relief.

* * * * *

XVII. All general rules for the time being in force at the commencement of every session of parliament, and which shall not previously have been submitted to parliament, shall from time to time, within one week after the commencement of every such session, be laid by one of His Majesty's principal secretaries of state before both houses of parliament (k).

XVIII. A written or printed copy of every rule, order, or regulation of the said commissioners, shall, before the same shall come into operation in any parish or union, be sent by the said commissioners, by the post, or in such manner as

(i) See 5 & 6 Vict. c. 57, s. 3.

(k) See 31 & 32 Vict. c. 122, s. 1.

VALIDITY OF ORDERS OF POOR LAW COMMISSIONERS.

The Court of Chancery has jurisdiction to restrain the poor law commissioners and guardians of a union from acting upon an order of the commissioners, pending proceedings under a *certiorari* to try the validity of the order: *Frewin v. Lewis*, 9 Sim. 66. *Decisions on sect. 15.*

A register of attendances, &c., kept by a union medical officer, and laid before the board of guardians weekly, for inspection under orders of the poor law commissioners, pursuant to 4 & 5 Will. 4. c. 76, s. 15, is not receivable in evidence for the person making the register, as a public official book: *Merrick v. Wakley*, 8 A. & E. 170; 7 L. J. Q. B. 190; 8 C. & P. 283.

Under 4 & 5 Will. 4, c. 76, ss. 15, 46, the poor law commissioners' have no power to appoint assistants to the returning officer for the election of guardians to be paid out of poor rates; nor to give the returning officer such power of appointment. An order for the election of guardians containing such a provision was held wholly void: *Reg. v. Hunt*, 12 A. & E. 130; 9 L. J. M. C. 86; 3 P. & D. 476.

The poor law commissioners may, by their orders under statute 4 & 5 Will. 4, c. 76, ss. 15, 42, control, regulate, and guide the guardians of a parish or union, though governed by a local Act, in the management of the poor; but they cannot change the relations of the local authorities among themselves, nor substantially alter the machinery established under the Act to carry out its purpose: *Reg. v. Poor Law Commissioners, re St. Giles'-in-the-Fields, and St. George's, Bloomsbury*, 17 Q. B. 445.

An order of the poor law commissioners may (like an order of justices) be quashed in part on *certiorari*, if the parts be sufficiently divisible: *Reg. v. Robinson*, 17 Q. B. 465; but an order of the commissioners cannot be questioned except on *certiorari*: *Reg. v. Oldham*, 10 Q. B. 700; 16 L. J. M. C. 110.

With reference to the general order of 16th March, 1854 (see Glen's Poor Law Board Orders), it was held that it remained in force till it was quashed on *certiorari*, and that it was several in its nature, and, if bad, capable of being quashed by one parish, although it was addressed generally to a number of parishes and unions, as regards which it might be free from objection: *Brushfield v. Baynton*, 33 L. T. 145.

come into
operation.

Publicity to be
given to rules,
&c. in manner
directed by
commis-
sioners.

Penalty on
overseer &c.
neglecting to
give publicity,
&c.

Disallowance
of rules to be
notified in
like manner.

No inmate of
a workhouse
obliged to
attend any
religious ser-
vice contrary
to his religious
principles, &c.

the commissioners shall think fit, sealed or stamped with their seal, addressed to the overseers of such parish, the guardians of such union or their clerk, and to the clerk to the justices of the petty sessions held for the division in which such parish or union shall be situate (c); and such overseers, guardians, or their clerk, and clerks to the justices aforesaid, are hereby required to keep and preserve, notify, and give publicity to, such rules, orders, and regulations, in such manner as the said commissioners shall direct, and also to allow every owner of property or his agent, or any ratepayer, in every such parish or union, to inspect the same at all reasonable times, free of any charge for such inspection, and to furnish copies of the same, being paid for such copies at and after the rate of three-pence for every folio of seventy-two words, and to allow copies or extracts thereof to be taken on being paid for so doing after the rate of three halfpence for every folio of seventy-two words; and in case any such overseer, guardian, clerk, or clerk to the justices, to whom such rules, orders, or regulations, or copies thereof, shall be sent as aforesaid, shall neglect to keep and preserve, notify and give publicity to the same in the mode prescribed or directed by the said commissioners, or shall refuse such inspection, or to furnish or allow such copies thereof to be taken as aforesaid, every person so offending shall for every such offence be subject and liable to a penalty not exceeding the sum of ten pounds nor less than forty shillings, to be recoverable in the same manner as any penalties are by this Act directed to be recovered: Provided also, that if any such rule shall after the same shall have come into operation be disallowed in manner hereinbefore mentioned, or revoked by the said commissioners, then and in every such case the said commissioners shall send, by the post, or in such manner as they shall think fit, to every parish or union affected by the said rule, notice of such disallowance or revocation; such notice of disallowance or revocation to be addressed, kept, preserved, notified, and publicly inspected, and copies thereof furnished or allowed to be taken, in such and the same manner and subject to the same penalties as are hereinbefore mentioned respecting the rules, orders, and regulations of the said commissioners.

XIX. No rules, orders, or regulations of the said commissioners, nor any bye-laws at present in force or to be hereafter made, shall oblige any inmate of any workhouse to attend any religious service which may be celebrated in a mode contrary to the religious principles of such inmate, nor shall authorize the education of any child in such workhouse in any religious creed other than that professed by the parents or surviving parent of such child, and to which such parents or parent shall object, or, in the case of an orphan, to which the godfather or godmother of such orphan shall so object: Provided also, that it shall and may be lawful for any licensed minister of the religious persua-

(c) See 7 & 8 Vict. c. 101, s. 72; 12 & 13 Vict. c. 103, ss. 12, 13; and 31 & 32 Vict. c. 122, s. 2.

sion of any inmate of such workhouse, at all times in the day, on the request of such inmate, to visit such workhouse for the purpose of affording religious assistance to such inmate, and also for the purpose of instructing his child or children in the principles of their religion (*d*).

XX. No order or regulation made by any assistant commissioner (*e*) shall be in force unless and until the same shall have been adopted by the said commissioners, and sealed or stamped with their seal, and thereupon every such order or regulation shall be considered as made by the said commissioners; and that no rule, order, or regulation of the said commissioners, except orders made in answer to the statements and reports hereinafter authorized to be made by overseers or guardians to the said commissioners (*f*), shall be in force until the expiration of fourteen days (*g*) after a written or printed copy of the same shall have been sent by the said commissioners, sealed or stamped, and addressed as lastly hereinbefore is mentioned.

XXI. Except where otherwise provided by this Act, all the powers and authorities given in and by a certain Act of parliament passed in the twenty-second year of the reign of His late Majesty King George the Third, intituled "An Act for the better Relief and Employment of the Poor," and in and by a certain other Act passed in the fifty-ninth year of the reign of his said late Majesty, intituled "An Act to amend the Laws for the Relief of the Poor," and all Acts for amending such Acts respectively, and also all the powers and authorities given by every other Act of parliament, general as well as local, for or relating to the building, altering, or enlarging of poor-houses and workhouses, and to the acquiring, purchasing, hiring, holding, selling, exchanging, and disposing thereof, or of land whereon the same may have been or may hereafter be erected, and of preparing such houses for the reception of poor persons, and the dieting, clothing, employing, and governing of such poor, and the raising or borrowing of money for any of the purposes aforesaid, and for repaying the same, and all powers of regulating and conducting all other workhouses whatsoever, and of governing, providing for, and employing the poor therein, and all powers auxiliary to any of the powers aforesaid, or in any way relating to the relief of the poor, shall in future be exercised by the persons authorized by law to exercise the same, under the control, and subject to the rules, orders, and regulations of the said commissioners; and the said commissioners and assistant commissioners respectively, and every of them, shall be entitled to attend at every parochial and other local board and vestry, and take part in the discussions, but not to vote at such board or vestry (*h*): Provided

Orders or regulations of assistant commissioners to be approved and sealed by commissioners.

Powers of 22 Geo. III. c. 83, 59 Geo. III. c. 12, and of all other Acts relating to workhouses, and to borrowing money, to be exercised under control of commissioners, and be subject to their orders.

Commissioners, &c. to be entitled to attend local boards and

(*d*) See 7 & 8 Vict. c. 101, s. 43; and 31 & 32 Vict. c. 122, s. 16.

(*e*) See s. 12, *ante*.

(*f*) See s. 52.

(*g*) See 5 & 6 Vict. c. 57, s. 4; 12 & 13 Vict. c. 103, ss. 12, 13.

(*h*) See 10 & 11 Vict. c. 109, s. 20.

vestry; but not to order the building or hiring of workhouses, except under limitations.

always, that nothing herein contained shall be construed to give the said commissioners or assistant commissioners any power to order the building, purchasing, hiring, altering, or enlarging of any workhouse, or the purchasing or hiring of any land at the charge or for the use of any parish or union, save and except so far as such powers are expressly given by this Act (f).

XXII. * * * no rules, orders, and regulations shall hereafter be made under the authority of * * * any local or other Act, relating to poor-houses, workhouses, or the relief of the poor, until the same shall have been submitted to and approved and confirmed by the said commissioners; and that the same, when so confirmed, shall be legally valid and binding upon all persons; and no justice or justices shall have power to repeal the same.

Commissioners empowered to order workhouses to be built, hired, altered, or enlarged, with consent, &c.

XXIII. It shall be lawful for the said commissioners, and they are hereby empowered, from time to time when they may see fit, by any writing under their hands and seal (g), by and with the consent in writing of a majority of the guardians of any union, or with the consent of a majority of the ratepayers and owners of property entitled to vote in manner hereinafter prescribed, in any parish, such last-mentioned majority to be ascertained in manner provided in and by this Act, to order and direct the overseers or guardians of any parish or union not having a workhouse or workhouses to build a workhouse or workhouses, and to purchase or hire land for the purpose of building the same thereon, or to purchase or hire a workhouse or workhouses, or any building or buildings for the purpose of being used as or converted into a workhouse or workhouses; and with the like consent, to order and direct the overseers or guardians of any parish or union having a workhouse or workhouses, or any buildings capable of being converted into a workhouse or workhouses, to enlarge or alter the same in such manner as the said commissioners shall deem most proper for carrying the provisions of this Act into execu-

(f) See ss. 23, 25.

33 & 34 Vict. c. 18, s. 1, sub-sect.

(g) See 30 & 31 Vict. c. 106, s. 4.

13; and as regards the metropolis

Decision on
sect. 21.

POWER OF COMMISSIONERS TO PREVENT BY ORDER ALTERATIONS TO WORKHOUSE UNDER A LOCAL ACT.

If the guardians of the poor of a parish under a Local Act, when about to enlarge or rebuild their workhouse in execution of the powers given them by their Act, are required by the poor law commissioners to submit the plans and estimates to them, and refuse to do so, the commissioners may, under 4 & 5 Will. 4, c. 76, s. 21, make an order forbidding them to proceed in any alteration or addition to such workhouse, or apply, raise, or borrow any money for that purpose till the plans and estimates be submitted to and approved by the commissioners: *Reg. v. Poor Law Commissioners, re Brighthelmstone*, 3 Q. B. 325; 6 J. P. 617; 2 Lumley, P. L. C. 9.

tion, or to build, hire, or purchase any additional workhouse or workhouses, or any building or buildings for the purpose of being used as or converted into a workhouse or workhouses, or to purchase or hire any land for building such additional workhouse or workhouses thereon, of such size and description, and according to such plan and in such manner as the said commissioners shall deem most proper for carrying the provisions of this Act into execution; and the overseers and guardians to whom any such order shall be directed, are hereby authorized and required to assess, raise, and levy such sum or sums of money as may be necessary for the purposes specified in such order, by such powers, ways, and means as are now by law given to or vested in churchwardens and overseers or guardians of the poor for purchasing or hiring land, or for building, hiring, and maintaining workhouses for the use of the poor, in their respective parishes or unions, or to borrow money for such purposes under the provisions of this or any other Act or Acts (a).

(a) See 43 Eliz. c. 2, s. 4; 9 Geo. 1, Will. 4, c. 69; 7 & 8 Vict. c. 101, c. 7, s. 4; 59 Geo. 3, c. 12; 5 & 6 s. 44; and 32 & 33 Vict. c. 63, s. 3.

WORKHOUSES.

The poor law commissioners, under 4 & 5 Will. 4, c. 76, s. 23, by consent of the guardians, ordered them to purchase land to build a workhouse thereon for the town. Upon motion for a *certiorari* that one of the parishes in the town already had a workhouse which might be altered to suit the purpose, the court refused the rule and would not inquire into the soundness of the discretion exercised by the Commissioners: *Rex v. Poor Law Commissioners, in re Newport Union*, 6 A. & E. 54.

*Decisions on
sect. 23.*

One who advanced money to guardians under Gilbert's Act it was held was not affected by the omission to pay off or provide for one-twentieth of the debt annually, but was entitled to a *mandamus* to the guardians to pay his debt and interest, though twenty years had elapsed since the money was borrowed, and he had only been paid the interest yearly: *Rex v. Carpenter*, 6 A. & E. 794; 6 L. J. M. C. 100.

Parish cottages let to tenants and land occupied therewith and parish allotments are not "workhouses," so as to entitle the guardians to take and use them for the purposes of the statutes 4 & 5 Will. 4, c. 76, and 5 & 6 Will. 4, c. 69: *Cantrell v. Windsor Union*, 7 L. J. M. C. 77; 1 Arnold, 133; 4 Bing. N. C. 348.

In the case of a separate parish under a board of guardians the poor law commissioners had authority to order the purchase of land and the building of a workhouse thereon for such parish without the consent of a majority of the guardians, as directed by 4 & 5 Will. 4, c. 76, s. 23: *Re St. Mary Abbots, Kensington*, 9 Q. B. 291; 16 L. J. M. C. 29.

The Oldham union comprises eight townships. The Oldham Corporation Gas and Water Act, 1853, extends only to four of those townships, and to two townships not within the union. By sect. 58 of that Act "the corporation shall at all times afford an ample supply of gas and water without charge to all hospitals and infirmaries within the limits of the Act, and all baths and washhouses, and all buildings within those limits, respectively maintained at the expense of the borough rates or the rates for the relief of the poor, or other rates raised within those limits." Held, that the corporation were not bound to supply gas and water gratuitously to the union workhouse, as it was not maintained by rates wholly raised within the limits of the Act: *Oldham Union v. Mayor, &c., of Oldham*, 23 L. T. 245.

Sums to be raised for purposes of building workhouses to be charged on poor rates; not to exceed one year's amount of poor rates.

Power to order workhouses to be altered or enlarged, without consent, &c.

Sums to be raised for such purposes not to exceed one-tenth of one year's rates, or 50l.

XXIV. For the better and more effectually securing the payment of any sum or sums of money which may be borrowed for the purposes aforesaid, with interest, it shall be lawful for the said overseers or guardians to charge the future poor rates of such parish or union with the amount of such sum or sums of money : Provided always, that the principal sum or sums to be raised for such purposes, whether raised within the year or borrowed, shall in no case exceed the average annual amount of the rates raised for the relief of the poor in such parish or union for three years ending at the Easter next preceding the raising of such money (a), and that any loan or money borrowed for any of the purposes aforesaid shall be repaid by annual instalments of not less than *one-tenth* of the sum borrowed, with interest on the same, in any one year (b).

XXV. It shall be lawful for the said commissioners, and they are hereby empowered, without requiring any such consent as aforesaid, by any writing under the hands and seal of the said commissioners, to order and direct the overseers or guardians of any parish or union having a workhouse or workhouses, or any building capable of being converted into a workhouse or workhouses, to enlarge or alter the same, according to such plan and in such manner as the said commissioners shall deem most proper for carrying the provisions of this Act into execution ; and the overseers or guardians to whom any such order shall be directed, are hereby authorized and required to assess, raise, and levy such sum or sums of money as may be necessary for the purposes specified in such order, by such powers, ways, and means as are now by law given to or vested in churchwardens and overseers or guardians of the poor for altering, enlarging, and maintaining workhouses for the use of the poor in their respective parishes or unions : [*Provided always, that the principal sum or sums to be raised for such purposes, and charged upon any parish, shall not exceed in the whole the sum of fifty pounds, nor in any such case exceed one-tenth of the average annual amount of the rates raised for the relief of the poor in such parish for the three years ending at the Easter next preceding the raising of such money (c).*]

(a) See 57 Geo. 3, c. 124, s. 5 ; c. 45, ss. 4, 5 ; and 34 Vict. c. 11, and 7 & 8 Vict. c. 101, s. 30. s. 1.

(b) See 6 & 7 Will. 4, c. 107 ; and 1 Vict. c. 25, s. 1 ; 7 & 8 Vict. c. 101, s. 44 ; 24 & 25 Vict. c. 55, s. 9 ; 30 & 31 Vict. c. 106, s. 4 ; 31 & 32 Vict. c. 122, s. 35 ; 32 & 33 Vict. (c) The proviso to this section is repealed by 29 & 30 Vict. c. 113, s. 8 ; see also 31 & 32 Vict. c. 122, s. 8, and 33 Vict. c. 2, s. 7.

WORKHOUSES—continued.

Decisions on sect. 23.

The guardians of a parish built a workhouse partly on ground consecrated as a churchyard, though no burials have ever taken place in it ; a faculty having been afterwards applied for, the Court of Queen's Bench would not grant a prohibition to prevent its being granted : *Reg. v. Twiss*, 33 J. P. 516.

XXVI. It shall be lawful for the said commissioners, by order under their hands and seal, to declare so many parishes as they may think fit to be united for the administration of the laws for the relief of the poor, and such parishes shall thereupon be deemed a union for such purpose, and thereupon the workhouse or workhouses of such parishes shall be for their common use; and the said commissioners may issue such rules, orders, and regulations as they shall deem expedient for the classification of such of the poor of such united parishes in such workhouse or workhouses as may be relieved in any such workhouse, and such poor may be received, maintained, and employed in any such workhouse or workhouses as if the same belonged exclusively to the parish to which such poor shall be chargeable; *but, notwithstanding such union and classification, each of the said parishes shall be separately chargeable with and liable to defray the expence of its own poor, whether relieved in or out of any such workhouse (d).*

Parishes may be united by commissioners.

Each parish chargeable for its own poor.

XXVII. In any union which may be formed under this Act, it shall be lawful for any two of His Majesty's justices of the peace usually acting for the district wherein such union may be situated, at their just and proper discretion, to direct, by order under their hands and seals, that relief shall be given to any adult person who shall from old age or infirmity of body be wholly unable to work, without requiring that such person shall reside in any workhouse: Provided always, that one of such justices shall certify in such order of his own knowledge, that

Justices may order out-door relief to aged and infirm persons wholly unable to work.

(d) See 9 Geo. 1, c. 7, s. 4; 22 Vict. c. 110, ss. 1, 6. The words Geo. 3, c. 83; 5 & 6 Will. 4, c. 69, in Italics are repealed by 28 & 29 s. 3; 7 & 8 Vict. c. 101, s. 24; 11 & 12 Vic. c. 79, s. 1.

POWER OF COMMISSIONERS TO UNITE PARISHES.

Under 4 & 5 Will. 4, c. 76, s. 26, the commissioners have power to form a union of parishes, although one of them has a local Act for the government of the poor: *Rex v. Poor Law Commissioners*, in re *Whitechapel Union*, 6 L. J. M. C. 114; 2 N. & P. 8; 6 A. & E. 34. *Decisions on sect. 26.*

Two distinct liberties, but never separated for the relief of the poor, do not constitute a union within 4 & 5 Will. 4, c. 76, s. 32, and the poor law commissioners might, under section 26, form them into a union with other places without the consent required by section 32: *Reg. v. Poor Law Commissioners*, in re *Holborn Union*, 7 L. J. M. C. 33; 6 A. & E. 56; 3 N. & P. 77.

Under 4 & 5 Will. 4, c. 76, ss. 26, 38, the poor law commissioners formed a union of six townships, comprehending T. and L., and ordered that there should be 18 guardians for the union, two to be elected by L., and the other 16 by the other townships in specified proportions, there not being less than 2 for any township. The first and two subsequent annual elections took place, at each of which more than 6 guardians were elected for the union; but L. elected none on any occasion. Held, that the board of guardians elected on the third election, though their number was not complete, might, under section 38, make an order on the overseers of T. for payment of money, and a *mandamus* went to the overseers to pay according to the order: *Reg. v. Todmorden and Walsden*, 1 Q. B. 185; 10 L. J. M. C. 65; in error, 11 L. J. M. C. 129.

such person is wholly unable to work, as aforesaid; and provided further, that such person shall be lawfully entitled to relief in such union, and shall desire to receive the same out of a workhouse.

When a union of parishes shall be proposed, commissioners to inquire the expense of poor belonging to each parish for three years preceding.

XXVIII. When any union of parishes for the administration of the laws for the relief of the poor shall be proposed to be made or shall be made under the provisions of this Act, it shall be lawful for the said commissioners, and they are hereby required, from time to time, by such means and in such manner as they may think fit, to inquire into and ascertain the expense incurred by each parish proposed to form part of such union for the relief of the poor belonging to such parish, whether such relief shall have been given in or out of any workhouse, for the three years ending on the twenty-fifth day of March next preceding such inquiry, and thereupon the said commissioners shall proceed to calculate and ascertain the annual average expense of each parish for that period; and the several parishes included or proposed to be included in such union shall, from the time of effecting the same, contribute and be assessed to a common fund for purchasing, building, hiring or providing, altering or enlarging any workhouse or other place for the reception and relief of the poor of such parishes, or for the purchase or renting of any lands or tenements, under and by virtue of the provisions of this Act, of or for such union, and for the future upholding and maintaining of such workhouses or places aforesaid, and the payment or allowance of the officers of such union, and the providing of

POWERS OF JUSTICES TO ORDER RELIEF.

*Decisions on
sect. 27.*

The justices could not order the overseers of the settlement parish to relieve a pauper, for non-parishioners are to be relieved until they are carried to their parish: *Clypton St. Mary's, Ravistock*, Sett. & Rem. 49.

No appeal lay against an order of justices for relief of a pauper: *Rex v. North Shields*, Doug. 331; Cald. 68.

An original order for the relief of a pauper cannot be made at the sessions: *Rex v. Winship and Grunwell*, Cald. 72; 5 Burr. 2677.

An appeal did not lie to the quarter sessions against an order of justices for the overseers to relieve a pauper: *Rex v. Devon JJ.*, 4 M. & S. 421.

The court have no jurisdiction to grant a *mandamus* to justices to make an order of maintenance on a particular parish: *Rex v. Middlesex JJ.*, 4 B. & Ald. 298.

An order of justices under 4 & 5 Will. 4, c. 76, s. 27, for relieving a pauper elsewhere than in the workhouse, cannot be made without summoning the persons who will be burdened by such order, to show cause why it should not be made. *Quære*, whether under this section the order should be addressed to the overseers or to the guardians: *Reg. v. Totnes*, 7 Q. B. 690; 14 L. J. M. C. 148; 9 J. P. 584.

The Durham union consists of the parishes and townships of the borough of Durham, and of several other parishes and townships in the county of Durham. Two justices usually acting in and for the borough, made an order under 4 & 5 Will. 4, c. 76, s. 27, for out-door relief to a pauper who resided within the borough; but it was held that they were not justices "usually acting for the district in which the union was situate," and had no jurisdiction to make the order: *Reg. v. Durham*, 4 N. S. C. 437.

utensils and materials for setting the poor on work therein, and for any other expense to be incurred for the common use or benefit or on the common account of such parishes (a), in the like proportions as on the said annual average of the said three years such relief had cost each such parish separately, until such average shall be varied or altered as hereinafter provided (b) : Provided always, and the said commissioners are hereby authorized, if they shall so think fit, but not otherwise, from time to time, either upon the application of the guardians of such union or of the overseers of any parish forming part of the same, or without such application, to cause a like inquiry and calculation to be made and average ascertained for the three years ending on the twenty-fifth day of March next preceding such inquiry; and from and after the ascertaining of any such average, or of any succeeding average, the respective parishes of such union shall contribute and be assessed to the common fund thereof, for the purposes aforesaid, in the proportions which the expence of such parishes shall be found to have borne to each other during such period upon the average which shall have been so last ascertained, until a like inquiry shall be again made, and a new average and proportion ascertained for the future assessment of such parishes (c).

Power for
taking future
averages.

XXIX. And whereas in divers unions formed under the said recited Act made and passed in the twenty-second year of the reign of His late Majesty King George the Third, intituled "An Act for the better Relief and Employment of the Poor" (d), or under local Acts of incorporation, the whole of the expence, as well of upholding the united workhouses therein as of maintaining and relieving the poor of the respective parishes of such unions, is assessed upon such parishes in the respective proportions fixed at the period when such unions were formed, and in others a part of such expenses is so levied, and a part subjected to variations at stated periods: And whereas some of the parishes of such unions have contributed and still continue to contribute, as their fixed proportion of the general fund, a sum much larger, and others a sum much less than the actual expence incurred for the relief of the poor belonging to them respectively; For remedy thereof, be it enacted, that it shall be lawful for the said commissioners, as soon as conveniently may be after the passing of this Act, to cause an inquiry to be made and an account rendered, as far as it may be practicable to render the same, by the visitors, directors, acting guardians, or other officers of such parishes or unions respectively, of the expence incurred for the relief of the poor belonging to each parish within any such union, whether such poor shall have been relieved in or out of such parish respectively, or in or out of any united workhouse, and whether such expence has been paid by

The like provision in unions effected under local Acts of incorporation.
22 Geo. III.
c. 83.

(a) See 11 & 12 Vict. c. 110, ss. 1, 6.

(b) See 2 & 3 Vic. c. 84.

(c) See 24 & 25 Vict. c. 55, ss. 9, 10; and 25 & 26 Vict. c. 103, s. 30.

(d) The Gilbert's Incorporations are now all dissolved, and the Act repealed by 34 & 35 Vict. c. 116.

the general fund of such union or the parochial funds of any of the parishes thereof, or by any private rate, or general subscription in lieu of a rate among the rate-payers of any such parish, and whether passed through the books or paid under the control of the managers or officers of such union or not, for the period of three years ending on the twenty-fifth day of March one thousand eight hundred and thirty-four, including therein a due proportion of the expence of maintaining the united workhouses and establishment of such union, calculated according to the actual expence otherwise incurred for the relief of the poor belonging to each such parish; and the average annual amount of such expence shall be deemed and taken to have been the annual expence incurred by such parish on account of its poor, notwithstanding such parish may have contributed a greater or smaller sum than such annual average to the general funds of the union during such period; and such annual average so ascertained as aforesaid, shall, if the said commissioners shall see fit, and to such extent only as they may direct, be deemed and taken as the fixed proportion to be contributed and paid by each such parish respectively towards a common fund for the future hiring, maintaining, and upholding, repairing, altering, or enlarging of any workhouse, and the renting of any land used by such union at the passing of this Act, and for the purchasing, building, hiring, maintaining, upholding, repairing, altering, or enlarging of any new workhouse or workhouses, or other place for the reception and relief of the poor belonging to the parishes of such union, and for the renting or purchase of any lands or tenements under or by virtue of the provisions of this Act, and the payment or allowance of any officers of such union, and the providing of utensils or materials for setting the poor on work therein, and for any other expence to be in future incurred for the common use or benefit of such parishes, and in addition to the cost or proportion of cost of the poor of such parishes who shall be maintained or relieved in or out of any workhouse of such union, for which each such parish shall in future be charged separately; any provision or enactment in the said recited Act or in any such local Acts to the contrary notwithstanding: Provided always, and the said commissioners are hereby authorized, if they see fit, but not otherwise, upon the application of the guardians of any such last-mentioned union, or of the overseers of any parish forming part of the same, or without such application, from time to time to cause an inquiry and calculation to be made, and average ascertained, for the three years ending on the twenty-fifth day of March next preceeding such inquiry, of the expence incurred by each such parish, as well in respect of its contribution to such common fund as of the cost or proportion of cost of its poor which shall have been maintained or relieved in or out of any workhouse of such union during such period of three years; and from and after the ascertaining of such average or of any succeeding average the respective parishes of such union shall

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contribute and be assessed to the common fund thereof, for the purposes of which such common fund is hereinbefore declared to be applicable, in the proportions which the expence of such parishes shall be found to have borne to each other during such period, upon the average which shall have been so last ascertained, until a like inquiry shall be again made, and a new average and proportion ascertained for the future assessment of such parishes to such common fund: Provided always, that nothing herein contained shall extend to any parishes already formed or hereafter to be formed into a union for the purposes of settlement or rating, or where the annual assessment is directed to be indifferently proportioned between the several parishes composing such union (a).

XXX. And for facilitating the inquiries directed by this Act, Parliamentary be it enacted, that unless and until they shall be proved to the satisfaction of the said commissioners to be incorrect, the returns made to parliament of the sums expended for the relief of the poor of any parish for the last three years previous to the passing of this Act shall be deemed to be the actual expence incurred by each such parish respectively during that period for the purposes aforesaid, and on account of the poor belonging to such parish respectively, and shall be taken as the ground on which such averages shall be calculated and ascertained (a).

XXXI. From and after the passing of this Act so much of the said recited Act made and passed in the twenty-second year of the reign of his late Majesty, King George the Third, intituled "An Act for the better Relief and Employment of the Poor," (b) as provides that no parish, township, hamlet, or place which shall be situate more than ten miles from any poor-house or workhouse to be provided under the authority of that Act shall be permitted to be united for the purposes therein mentioned with the parishes, townships, hamlets, and places which shall establish such poor-house or workhouse as therein mentioned, and as limits the class or description of persons who shall be sent to such poor-house or workhouse; and so much of a certain Act made and passed in the fifty-sixth year of the reign of His said late Majesty King George the Third, intituled, "An Act to repeal certain Provisions in Local Acts for the Maintenance and Management of the Poor," as repeals all enactments and provisions contained in any Act or Acts of parliament since the commencement of the reign of His late Majesty King George the First, whereby any parish, township, or hamlet at a greater distance than ten miles from any house of industry or workhouse shall thereafter be empowered or authorized to become contributors to or to take the benefit of such house of industry or workhouse; shall be and the same is hereby repealed (c).

(a) See 24 & 25 Vict. c. 55, ss. 9, 10, and 25 & 26 Vict. c. 103, s. 30. 22 Geo. 3, c. 83, repealed by 34 & 35 Vict. c. 83.

(b) All the Gilbert's Incorporations have now been dissolved, and (c) See 30 & 31 Vict. c. 106, s. 15; and 33 Vict. c. 2, s. 1.

Parliamentary returns to be evidence of actual expence of poor to each parish.

Repeal of 22 Geo. III. c. 83, s. 5. and 56 Geo. III. c. 129; part of s. 1, restraining parishes from contributing to workhouse at a greater distance than ten miles; and of 22 Geo. III. c. 83, s. 29, limiting class of persons to be sent to workhouses.

Power to dissolve, add to, or take from any union ;

and thereupon to make such rules as may be adapted to its altered state.

Rights and interests of parishes, and claims on them, to be ascertained and secured.

Dissolution or alteration not to affect rights of third parties,

XXXII. It shall be lawful for the said commissioners, from time to time, as they may see fit, by order under their hands and seal, to declare any union, whether formed before or after the passing of this Act (except when united for the purposes of settlement or rating), to be dissolved, or any parish or parishes, specifying the same, to be separated from or added to any such union (*a*), and, as the case may be, such union shall thereupon be dissolved, or such parish or parishes shall thereupon be separated from or added to such union accordingly; and the said commissioners shall in every such case frame and make such rules, orders, and regulations as they may think fit, for adapting the constitution, management, and board of guardians of every such union, from or to which there shall be such separation or addition as aforesaid to the altered state of the same, and every such union shall after any such alteration be constituted, managed, and governed as if the same had been originally formed in such altered state; and in case any union shall be wholly or partially dissolved as aforesaid, then the parishes constituting, or in case of a partial dissolution, separated from any such union, shall thenceforth be subject to be re-united, or united with other parishes or unions, or otherwise dealt with according to the provisions of this Act as the said commissioners shall think fit: Provided always that in every such case the said commissioners shall and they are hereby required to ascertain the proportionate value to every parish of such union of the workhouses or other property held or enjoyed by such union for the use of the poor or benefit of the rate-payers therein, and also the proportionate amount chargeable on every parish in respect of all the liabilities of such union existing at the time of such dissolution or alteration of the same, and the said commissioners shall thereupon fix the amount to be received, or paid or secured to be paid by every parish affected by such alteration (*b*); and the sum to be received, if any, by such parish, shall be paid, or as the said commissioners shall direct, be secured to be paid, to the overseers or guardians of the same, for the benefit of such parish, and in diminution of the rates thereof and of the expence attending such alteration; and the sum to be so paid or secured to be paid by every such parish shall be raised, under the direction of the said commissioners, by the overseers or guardians of such parish, or charged on the poor rates of such parish, as the said commissioners may see fit, and shall be paid or secured for the use and benefit of the union from which the same parish shall have been so separated, or of the persons or parishes otherwise entitled thereto as the case may be: Provided always, that no such dissolution or alteration of the parishes constituting any such union, nor any addition thereto as aforesaid, shall in any manner prejudice, vary, or affect the rights or interests of third persons, unless such third persons, by themselves or their agents, shall consent in writing to such dissolution, or proposed alteration or addition;

(b) See 7 & 8 Vict. c. 101, s. 46.

and that no such dissolution, alteration, or addition shall take place or be made, unless a majority of not less than two-thirds of the guardians of such union shall also concur therein (c); and in every such case, when the said majority of the guardians of such union shall so concur in such proposed alteration, the terms on which such concurrence shall have been given, if approved by the said commissioners, shall be binding and conclusive on the several parishes of such union.

nor take place without the consent of guardians of parish.

XXXIII. In any union already formed or which may hereafter be formed in pursuance of or under the provisions of this Act it shall and may be lawful for the guardians elected by the parishes forming such union, by any writing under the hands of all such guardians, to agree, subject to the approbation of the said commissioners, for or on behalf of the respective parishes forming such union, that for the purposes of settlement such parishes shall be considered as one parish; and in such case such agreement, having been first signed by the said guardians, shall be signed and sealed by the said commissioners, and one part thereof shall be deposited with the said commissioners, and a counterpart or counterparts thereof, signed by the said guardians, and signed and sealed by the said commissioners, deposited with the clerk of the peace of the county, riding, division, district, or liberty in which the parishes of such union shall be respectively situate; and the said clerk of the peace shall and is hereby required, upon the receipt of such agreement, or counterpart or counterparts thereof, to file the same with the records of such county, riding, division, district, or liberty; and from and after the depositing of the same as aforesaid the said agreement shall for ever thereafter be binding on each of such parishes, and shall not be revoked or annulled; and the settlement of a poor person in any one of the parishes of such union shall be considered, as between such parishes, a settlement in such union, and the expence of maintaining, supporting, and relieving every such poor person, and all other expences of maintaining, supporting, and relieving the poor to which any one of such parishes shall be liable after the depositing

United parishes may be one parish for purposes of settlement.

(c) See 7 & 8 Vict. c. 101, s. 66; Vict. c. 63, s. 1; and 33 Vict. c. 2, 31 & 32 Vict. c. 122, s. 4; 32 & 33 s. 4.

POWERS OF COMMISSIONERS TO UNITE PARISHES.

St. George-the-Martyr, and St. Andrew, Holborn-above-Bars, did not constitute a union within 4 & 5 Will. 4, c. 76, s. 32; and under sect. 26, the commissioners might form the district comprising the two into a union with other places without consent: *Reg. v. Poor Law Commissioners*, in re *Holborn Union*, 6 A. & E. 56, 7 L. J. M. C. 33.

Decisions on sect. 32.

WORKHOUSE OF DISSOLVED INCORPORATION.

The workhouse of a dissolved incorporation may be appropriated by the guardians of a union formed under 4 & 5 Will. 4, c. 76, for the common purposes of the union: *Woodbridge v. Colnies and Carlford*, 13 Q. B. 269.

of such agreement, part or counterpart as aforesaid, or of ascertaining, litigating, or adjudging the settlement of any poor person in any of such parishes, shall form part of the general expences and be paid out of the common funds of such union: Provided always, that wherever such agreement is entered into as aforesaid the rate or proportion of contribution to such common funds to be thereafter paid by each of the parishes of such union shall be ascertained and fixed in like manner as in and by this Act is provided for in cases where any union of parishes is made or proposed to be made under the provisions thereof, and shall not be subject to further variation.

Union may be one parish for purpose of rating, with consent of guardians.

Agreement or counterpart for such rating to be deposited with clerk of the peace.

Guardians to ascertain and assess value of property.

XXXIV. Where the parishes of any union shall be situate within the same county, riding, division, district, or liberty, under the jurisdiction of the same justices of the peace, it shall and may be lawful for the guardians elected by the parishes forming such union, by any writing under the hands of all such guardians, to agree, with the approbation of the said commissioners, for or on behalf of the respective parishes for which they shall so act as guardians, that, for the purposes of raising in common the necessary funds for the relief of the poor of such union, such parishes shall be considered one parish; and in such case such agreement, having been first signed by the said guardians, shall be signed and sealed by the said commissioners, and one part thereof deposited with the said commissioners, and a counterpart or counterparts thereof, signed by the said guardians, and signed and sealed by the said commissioners, deposited with the clerk of the peace of the county, riding, division, district, or liberty, counties, district or districts, in which the said parishes of such union shall be situate; and the said clerk or clerks of the peace shall and is and are hereby required, upon the receipt of such agreement, part or counterpart, to file the same with the records of such county, riding, division, district, or liberty, or counties, district or districts, and from and after the depositing and filing of such last-mentioned agreement or counterpart the same shall be for ever binding upon such parishes, and shall not be revoked or annulled.

XXXV. From and after such depositing and filing of the said agreement, part or counterpart, the said guardians shall, under such regulations as the said commissioners shall in that respect prescribe, proceed to ascertain and assess the value of the property in the several parishes of such union rateable to the relief of the poor, and to cause to be made such surveys and valuations of the said property, or any part thereof, as may be necessary, from time to time, to make a fair and just

UNION FOR SETTLEMENT.

Decision on sect. 33.

A union for settlement formed under the 4 & 5 Will. 4, c. 76, s. 33, comes within the operation of 24 & 25 Vict. c. 55, s. 9, with regard to common fund apportionment: *Reg. v. Calthrop*, 27 J. P. 372; 4 B. & S. 216.

assessment upon the said united parishes in respect of such property so rateable as aforesaid; and all rates grounded on every such valuation or assessment shall be made, allowed, published, and recovered in such and the same manner as the rates for the relief of the poor are now by law made, allowed, published, and recovered; and the ratepayers shall have the like power of appeal against such last-mentioned rates as any persons now have against rates made for the relief of the poor.

XXXVI. From and after any such common rate shall have come into operation the proportions of contribution fixed at the period of uniting such parishes, or existing at the time of such last-mentioned agreement for a common rate, shall wholly cease; and all expenditure in respect of the poor of such union, or chargeable in any way on the poor rates of the respective parishes thereof, shall be deemed and be the common expenditure of such union, and be chargeable upon and paid out of the common or general fund to be raised upon such parishes under such common rate, according to the valuation or assessment of the rateable property in such parishes so ascertained, confirmed, and allowed by the said justices from time to time in manner hereinbefore provided: Provided always, that the expence of every such valuation shall at all times be a charge on the common rate of such parishes: Provided always, that in case any parish of any union, at the period of entering into such agreement for the purposes of settlement or a common rate, shall not be represented by a guardian elected solely by such parish, such parish shall not be bound by any such agreement, unless a majority of the owners of property and rate-payers in such parish, entitled to vote in the manner provided by this Act, shall, by their votes in writing, testify their assent to such agreement in such form as the said commissioners shall prescribe; and in case such assent shall not be so given, such parish shall be wholly omitted from such agreement, and be liable to pay such proportion only of the common assessment as it was bound to pay upon the forming of the union of such parishes.

Rates grounded on such assessment to be allowed as poor rates.

In such cases all expenditure for the poor to be in common.

Expence of valuation.

Proviso for consent of parishes not represented by guardian.

XXXVII. From and after the passing of this Act no union or incorporation of parishes shall be formed under the provisions of the said Act made and passed in the twenty-second year of the reign of His late Majesty King George the Third, without the previous consent of the said commissioners, testified under their hands and seal.

No union to be so formed without consent of commissioners.

XXXVIII. Where any parishes shall be united by order or with the concurrence of the said commissioners for the administration of the laws for the relief of the poor, a board of guardians of the poor for such union shall be constituted and chosen, and the workhouse or workhouses of such union shall be governed, and the relief of the poor in such union shall be administered, by such board of guardians(a); and the said

Constitution and election of board of guardians for unions.

guardians shall be elected by the rate-payers (*a*), and by such owners of property in the parishes forming such union as shall in manner hereinafter mentioned require to have their names entered as entitled to vote as owners in the books of such parishes respectively; and the said commissioners shall determine the number and prescribe the duties of the guardians to be elected in each union, and also fix a qualification without which no person shall be eligible as such guardian, such qualification to consist in being rated to the poor rate of some parish or parishes in such union, but not so as to require a qualification exceeding the annual [*rental*(*b*)] of forty pounds (*c*), and shall also determine the number of guardians which shall be elected for any one or more of such parishes, having due regard to the circumstances of each such parish (*d*): Provided always, that one or more guardians shall be elected for each parish included in such union (*e*); and such guardians, when so elected, shall continue in office until the twenty-fifth day of March next following their appointment or until others are appointed in their stead, and on such twenty-fifth day of March, or if that day should fall on a Sunday or Good Friday then on the day next following, or within fourteen days next after the said twenty-fifth day of March in every year, such guardians shall go out of office, and the guardians for the ensuing year shall be chosen (*f*); and in the event of any vacancy occurring in such board by the death, removal or resignation, or refusal or disqualification to act of any elected guardian between the periods of such first and the next and any subsequent annual election, or in case the full number of guardians shall not be duly elected at such subsequent election of guardians for the time being, the other or remaining members of the said board shall continue to act until the next election, or until the completion of the said board, as if no such vacancy had occurred, and as if the number of such board were complete (*g*); and every justice of the peace (*h*), residing in any such parish (*i*), and acting for the county, riding, or division in which the same may be situated, shall be an *ex officio* guardian of such united or common workhouses, and shall, until such board of guardians shall be duly elected and constituted as aforesaid, and also, in case of any irregularity or delay in any subsequent election of guardians, receive and carry into effect the rules, orders, and regulations of the said commissioners; and after such board shall be elected and constituted as aforesaid, every such justice shall *ex officio* be and be entitled, if he think fit, to act as a member of such board, in

(*a*) See s. 40, *post*, and 32 & 33 Vict. c. 41, ss. 7-15.

(*b*) Now the "annual rateable value," see 30 & 31 Vict. c. 106, s. 4, and as regards the metropolis, 32 & 33 Vict. c. 67, s. 45.

(*c*) See 5 & 6 Vict. c. 57, s. 14.

(*d*) See 7 & 8 Vict. c. 101, ss. 19-21.

(*e*) See 5 & 6 Vict. c. 57, s. 12.

(*f*) See 5 & 6 Vict. c. 57, s. 10; 7 & 8 Vict. c. 101, s. 17; 14 & 15 Vict. c. 105, s. 2; and 31 & 32 Vict. c. 122, s. 6.

(*g*) See 5 & 6 Vict. c. 57, ss. 11, 12.

(*h*) See 18 Geo. 2, c. 20, s. 1.

(*i*) See 7 & 8 Vict. c. 101, s. 24.

addition to and in like manner as such elected guardians: Provided always, that except where otherwise ordered by the said commissioners, and also except for the purpose of consenting to the dissolution or alteration of any union or any addition thereto, or to the formation of any union for the purposes of settlement or rating, no *ex officio*, or other guardian of any such board as aforesaid shall have power to act in virtue of such office, except as a member and at a meeting of such board; and no act of any such meeting shall be valid unless three members shall be present and concur therein: Provided also, that nothing herein contained shall prevent such owners and ratepayers from re-electing the same persons or any or either of them to be guardians for the year next ensuing, nor from electing as a guardian any person who may already have been chosen as a guardian of any other parish.

No guardian to have power except at a local board, unless otherwise directed by the commissioners.

Guardians may be re-elected.

QUALIFICATION OF GUARDIANS.

An owner who has compounded for rates, and is rated accordingly, is qualified for the office of guardian even though he be not an occupier: *Reg. v. Hampton*, 6 B. & S. 923; 13 L. T. (N. S.) 433; 12 Jur. (N. S.) 587; 29 J. P. 757. *Decisions on Reg. sect. 38.*

VOTING AT ELECTION.

If a majority dissent from an election, but vote for nobody else, the election by the minority is good; per Lord Mansfield, C. J., whenever electors are present and do not vote at all, "they virtually acquiesce in the election made by those who do": *Oldknow v. Wainwright*, or *Reg. v. Foxcroft*, 2 Burr. 1017.

Votes given for an unqualified person under notice of his incapacity are thrown away: *Taylor v. Bath, Mayor, &c., of, temp. Ld. Ch. Lee*, 2 Burr. 1021.

At an election of councillors for a borough not divided into wards, the mayor was a candidate, and also acted as returning officer. There was evidence that a number of electors who voted for him knew that he was acting as returning officer, but not of their knowledge that he was thereby disqualified for becoming a candidate. Held, that although the electors who so voted, were proved to have known of a fact, the legal effect of which is to disqualify a candidate, it could not, without further information, be presumed that they voted knowing that he was actually disqualified, and thereby threw their votes away: *Reg. v. Tewkesbury, Mayor of*, 37 L. J. Q. B. 288; 18 L. T. (N. S.) 851; L. R. 3 Q. B. 629; 9 B. & S. 683.

EX-OFFICIO GUARDIANS.

The word "division" when used in conjunction with the words "county" and "riding" does not include cities, boroughs, cinque ports and similar jurisdictions: *Evans v. Stephens*, 4 T. R. 224, 459.

A magistrate residing within a union is only a guardian *ex officio* while he is acting in the office of guardian: *Reg. v. Cant*, 1 Car. & M. 521.

QUO WARRANTO FOR OFFICE OF GUARDIAN.

Formerly the Court of King's Bench held that *quo warranto* did not lie for the office of governor and director of the poor: *Rex v. Ramsden*, 3 A. & E. 456; 5 L. J. M. C. 72.

And on the authority of that case it was held that *quo warranto* did not lie for exercising the office of guardian under 4 & 5 Will. 4, c. 76: In *re Aston Union*, 6 A. & E. 784; S. C. *Reg. v. Carpenter*, 1 N. & P. 773.

The like
for single
parishes.

XXXIX. If the said commissioners shall, by any order under their hands and seal, direct that the administration of the laws for the relief of the poor of any single parish should be governed and administered by a board of guardians, then such board shall be elected and constituted, and authorized and entitled to act, for such single parish, in like manner in all respects as is hereinbefore enacted and provided in respect to a board of guardians for united parishes; and every justice of the peace resident therein, and acting for the county, riding, or division in which the same is situated, shall be and may act as an *ex officio* member of such board (a).

At elections
of guardians
votes to be
taken in
writing, and
owners as well
as occupiers
to vote.

XL. In all cases of the election of guardians under this Act, or wherever the consent of the owners of property or ratepayers (b) in any parish or union shall be required for any of the purposes of this Act, except when otherwise expressly provided for in this Act, the votes of such owners and ratepayers shall be given or taken in writing, collected, and returned, in such manner as the said commissioners shall direct; and in every such case the owner, as well as the ratepayer, in respect of any property in such parish or union, shall be entitled to vote, [and the owner shall have the same number and proportion of votes respectively as is provided for inhabitants and other persons in and by an Act made and passed in the fifty-eighth year of the reign of His said late Majesty King George the Third, intituled "*An Act for the Regulation of Parish Vestries*," and in and by an Act to amend the same, made and passed in the fifty-ninth year of His said late Majesty; and the ratepayers under two hundred pounds shall each have a single vote; and the ratepayers rated at two hundred pounds or more, but under four hundred pounds, shall each have two votes, and the ratepayers rated at four hundred pounds or more, shall each have three votes (c);] and the majority of the votes of such owners and ratepayers which shall be actually collected and returned shall in every such case be binding on such parish; and for the purpose of ascertaining the number of votes to which each such owner shall be entitled, the

58 Geo. III.
c. 69.

Scale of
voting.

(a) See 7 & 8 Vict. c. 101, s. 24.

(c) Repealed by 7 & 8 Vict. c. 101,

(b) See 32 & 33 Vict. c. 41, ss. s. 14.
7. 15.

QUO WARRANTO FOR OFFICE OF GUARDIAN—continued.

Decisions on
sect. 38.

But since *Darley v. Reg.*, 12 Cl. & F. 349, the Court of Queen's Bench hold that *quo warranto* will lie in respect of the office of a guardian of the poor: *Reg. v. Hampton*, 13 L. T. (N. S.) 431; 29 J. P. 757; 12 Jur. (N. S.) 583; 6 B. & S. 923.

SINGLE PARISHES UNDER LOCAL ACTS.

Decision on
sect. 39.

The poor law commissioners, under 4 & 5 Will. 4, c. 76, s. 39, had no power to order a board of guardians to be elected for a single parish in which there was a local Act in force for the government of the poor: *Reg. v. Poor Law Commissioners*, in re *St. Pancras*, 6 A. & E. 1; 6 L. J. M. C. 41; 1 N. & P. 571.

aggregate amount of the assessment for the time being of any property belonging to such owner in such parish, or on any person or persons in respect of the same, to the poor rate, shall be deemed to be and be taken as the annual value of such property to such owner; and where any such owner shall be the *bonâ fide* occupier of any such property, he shall be entitled to vote as well in respect of his occupation as of his being such owner: Provided always, that it shall be lawful for any owner from time to time, by writing under his hand, to appoint any person to vote as his proxy (*d*); and every such appointment shall remain in force until revoked or recalled by such owner; but no owner shall be entitled to vote, either in person or proxy, unless he shall, previous to the day on which he shall claim to vote, have given a statement in writing of his name and address, and the description of the property in the parish as owner whereof, or proxy for the owner whereof, he claims to vote, and if such proxy, the original or an attested copy of the writing appointing him such proxy, to the overseers of such parish (*e*); and the said overseers are hereby required to enter in the rate books of such parish, or in some other book to be from time to time provided for that purpose, the names and addresses of the owners and proxies who shall send such statements, and the assessment of the rate for the relief of the poor of the property in respect whereof they respectively claim to vote: Provided also, that every person who shall not vote, or who shall not comply with the directions to be made by the said commissioners for the giving, taking, or returning of votes, shall be omitted in the calculation of votes, and considered as having had no vote on the question whereon he might have voted: Provided also, that no person shall be deemed a ratepayer, or be entitled to vote, or do any other act, matter or thing as such, under the provisions of this Act, unless he shall have been rated to the relief of the poor (*f*) for the whole year immediately preceding his so voting or otherwise acting as such ratepayer, and shall have paid the parochial rates and assessments (*g*) made and assessed upon him for the period of one whole year, as well as those due from him at the time of so voting or acting, except such as shall have been made or become due within the six months immediately preceding such voting or acting: Provided always, that in cases of property belonging to any corporation aggregate, or to any joint stock or other company, no member of such corporation, or proprietor of or interested in such joint stock or other company, shall be entitled to vote as such owner in respect thereof; but any officer of such corporation, joint stock, or other company, whose name shall be entered by the direction of the governing body of

Votes may
be given by
proxy.

No ratepayers
to vote, unless
rated one year.

(*d*) See 30 & 31 Vict. c. 106, s. 5.

(*f*) See 30 & 31 Vict. c. 106, s. 11.

(*e*) See 7 & 8 Vict. c. 101, s. 15;
and 30 & 31 Vict. c. 106, s. 5.

(*g*) See 7 & 8 Vict. c. 101, s. 16.

Elections of guardians, visitors, and other officers under the Act 22 Geo. III. c. 83, or any local Act to be made according to the provisions of this Act.

Commissioners may make rules, &c. for present or future workhouses, and vary bye-laws already in force or to be made hereafter.

such corporation or company in the books of the parish, in the manner hereinbefore directed with respect to the owner of property, shall be entitled to vote in respect of such property in the same manner as if he were the owner thereof (*i*).

XLI. All elections of guardians, visitors, and other officers, for the execution of any of the powers or purposes of the said recited Act made and passed in the twenty-second year of the reign of His said late Majesty King George the Third, intituled “An Act for the better Relief and Employment of the Poor” (*k*), or of any local Act of parliament relating to poor-houses, workhouses, or the relief of the poor, or any Act to alter or amend the same respectively, shall hereafter, so far as the said commissioners shall direct, be made and conducted according to the provisions of this Act: Provided always, that it shall be lawful for the said commissioners, if they shall so think fit, from time to time, with the consent of the majority of the owners of property and ratepayers of any parish, or of any union now existing or to be formed under the provisions of this Act, to alter the period for which the guardians to be appointed under the provisions of this Act for such parish or union, or any of them, would under the provisions of this Act hold office, for such other period or periods as to the said commissioners, with such consent as aforesaid, shall seem expedient, and also to make such alterations in the number, mode of appointment, removal, and period of service of the guardians, or any of them, of any parish, or of any union now existing or to be formed under the provisions of this Act, as to the said commissioners, with such consent as aforesaid, shall seem expedient (*l*).

XLII. The said commissioners may and are hereby authorized by writing under their hands and seal, to make rules, orders, and regulations, to be observed and enforced at every workhouse (*m*) already established by virtue of the said recited Act made and passed in the twenty-second year of the reign of His said late Majesty King George the Third, intituled “An Act for the better Relief and Employment of the Poor,” or any general or local Act of parliament (*n*), or hereafter to be established by virtue of such Acts or of any of them, or of this or any other Act of parliament relating to the relief of the poor, for the government thereof, and the nature and amount of the relief to be given to and the labour to be exacted from the persons relieved, and the preservation therein of good order, and from time to time to suspend, alter, vary, amend, or rescind the same, and make any new or other rules, orders,

(*i*) See 7 & 8 Vict. c. 101, s. 17; and 14 & 15 Vict. c. 105, ss. 2, 3; and 30 & 31 Vict. c. 106, s. 10. (*l*) See 7 & 8 Vict. c. 101, ss. 18, 66.

(*k*) All the Gilbert's Incorporations have now been dissolved, and the 22 Geo. 3, c. 83, repealed by 34 & 35 Vict. c. 116. (*m*) See 10 & 11 Vict. c. 109, s. 23; and 12 & 13 Vict. c. 13, s. 1. (*n*) See 49 Geo. 3, c. 124, s. 5; and 50 Geo. 3, c. 50, ss. 1, 3.

and regulations, to be observed and enforced as aforesaid, as they from time to time shall think fit, and to alter at their discretion, any of the rules, orders, and regulations contained in the schedule to the said recited Act, and also to alter or rescind any rules, orders, and regulations heretofore made in pursuance of the said recited Act, or any local Act of parliament relating to workhouses or the relief of the poor; and all rules, orders, and regulations to be from time to time made by the said commissioners under the authority of this Act shall be valid and binding, and shall be obeyed and observed as if the same were specifically made by and embodied in this Act (o); subject, nevertheless, to the said power of the said commissioners from time to time to rescind, amend, suspend, or alter the same: Provided always, that if any such rule, order, or regulation shall be, at the time of issuing the same, directed to and affect more than one union, the same shall be considered as a general rule, and subject and liable to all the provisions in this Act contained respecting general rules (p).

Rules, &c.
affecting more
than one union
to be deemed
general rules.

XLIII. Where any rules, orders, or regulations, or any bye-laws, shall be made or directed by the said commissioners to be observed or enforced in any workhouse, it shall and may be lawful for any justice of the peace, acting in and for the county, place, or jurisdiction in which such workhouse shall be situate, to visit, inspect, and examine such workhouse at such times as he shall think proper, for the purpose of ascertaining whether such rules, orders, regulations, or bye-laws are or have been duly observed and obeyed in such workhouse, as well as for such other purposes as justices are now authorized to visit workhouses, under and by virtue of a certain Act, made and passed in the thirtieth year of the reign of His said late Majesty, King George the Third, intituled "An Act to empower Justices and other Persons to visit Parish Workhouses or Poor-houses, and examine and certify the State and Condition of the Poor therein to the Quarter Sessions;" (q) and if in the opinion of such justice such rules, orders, regulations, or bye-laws, or any of them have not been duly observed and obeyed in such workhouse, it shall be lawful for such justice to summon the party offending in such respect to appear before any two justices of the peace to answer any complaint touching the non-observance of such rules, orders, regulations, and bye-laws, or any of them, and upon conviction before such two justices of the party so offending, such party shall forfeit and be liable to such penalties and punishments as are hereinafter prescribed and provided against parties wilfully neglecting or disobeying the rules, orders, or regulations of the said commissioners: Provided always,

Justices em-
powered to see
bye-laws en-
forced, and to
visit work-
houses, pur-
suant to 30
Geo. III.
c. 49.

(o) See 7 & 8 Vict. c. 101, s. 71. c. 101, s. 43; and 10 & 11 Vict.

(p) See ss. 16, 109; 7 & 8 Vict. c. 109, s. 15.

(q) See 30 Geo. 3, c. 49, s. 1.

The power given to justices, &c. to visit workhouses reserved where commissioners rules, &c. are not in force.

that where no such rules, orders, regulations, or bye-laws shall have been directed by the said commissioners to be enforced and observed in the workhouse of any parish, nothing in this Act contained shall be construed to restrain or prevent any justice of the peace, physician, surgeon, or apothecary, or the officiating clergyman of any parish, from visiting such workhouse and examining and certifying the state and condition of the same and of the poor therein, in such manner as they or any of them are authorized to do in and by the said last recited Act (*g*).

Buildings taken for workhouses to be within the jurisdiction of the place to which they belong, though situated without.

XLIV. "Whereas the jurisdiction of certain cities, boroughs, and corporate towns is not always co-extensive with the parish in which it exists;" Be it therefore enacted, that every house or building which shall be erected, purchased, or hired as and for a workhouse, together with all premises and appurtenances thereto belonging, and the land or lands occupied therewith, shall be deemed and held to be within and subject to the local jurisdiction of such incorporated city, borough, or town to which they may respectively belong, though the same may be situated in such part of the respective parishes as may not be within the chartered boundaries thereof (*h*).

Nolunatic, insane person, or dangerous idiot to be detained in a workhouse more than 14 days.

XLV. Nothing in this Act contained shall authorize the detention in any workhouse of any dangerous lunatic, insane person, or idiot, for any longer period than fourteen days (*i*); and every person wilfully detaining in any workhouse any such lunatic, insane person, or idiot, for more than fourteen days, shall be deemed guilty of a misdemeanor: Provided always, that nothing herein contained shall extend to any place duly licensed for the reception of lunatics and other insane persons, or to any workhouse being also a county lunatic asylum.

Commissioners may direct overseers and guardians to appoint paid officers for parishes or unions;

XLVI. It shall be lawful for the said commissioners, as and when they shall see fit, by order under their hands and seal, to direct the overseers or guardians of any parish or union, or of so many parishes or unions as the said commissioners may in such order specify and declare to be united for the purpose only of appointing and paying officers, to appoint such paid officers, with such qualifications as the said commissioners shall think necessary for superintending or assisting in the administration of the relief and employment of the poor, and for the examining and auditing, allowing or disallowing of accounts in such parish or union, or united parishes, and otherwise carrying the provisions of this Act into execution (*k*); and the said commissioners may and they are hereby empowered to define and specify and direct the execution of the respective duties of such officers, and the places or limits within which the same shall be performed (*l*), and direct the mode of the appointment

and fix their duties, and the mode of appointment and dismissal, and the security;

(*g*) See 12 & 13 Vict. c. 13, s. 8.

(*h*) See 54 Geo. 3, c. 170, s. 3; 59 Geo. 3, c. 12, s. 11; and 7 & 8 Vict. c. 101, s. 56.

(*i*) See 30 & 31 Vict. c. 106, s. 22.

(*k*) See 2 & 3 Vict. c. 84.

(*l*) See 5 & 6 Vict. c. 57, s. 7.

and determine the continuance in office or dismissal of such officers, and the amount and nature of the security to be given by such of the said officers as the said commissioners shall think ought to give security (*m*), and when the said commissioners may see occasion, to regulate the amount of salaries payable to such officers respectively, and the time and mode of payment thereof, and the proportions in which such respective parishes or unions shall contribute to such payment; and such salaries shall be chargeable upon and payable out of the poor rates of such parish or union, or respective parishes, in the manner and proportions fixed by the said commissioners, and shall be recoverable against the overseers or guardians of such parish or union, or parishes, by all such ways and means as the salaries of assistant overseers or other paid officers of any parish or union are recoverable by law; and all such payments shall be valid, and shall be allowed in the accounts of the overseers or guardians paying the same (*n*).

(*m*) See 7 & 8 Vict. c. 101, s. 61; (*n*) See 28 & 29 Vict. c. 79, s. 1. and 33 & 34 Vict. c. 23, s. 2.

POWER OF COMMISSIONERS TO DIRECT APPOINTMENT OF OFFICERS.

The poor law commissioners could not, by an order under 4 & 5 Will. 4, c. 76, s. 46, direct the appointment of a collector of poor rates for a parish under a local Act: *Reg. v. Poor Law Commissioners*, in re *Strand Union*, 9 A. & E. 901. *Decisions on sect. 46.*

Where several parishes have been united for the relief and employment of the poor, the poor law commissioners had no authority, under 4 & 5 Will. 4, c. 76, s. 46, to direct the guardians of the union to appoint a collector of poor rates in any one of the parishes forming the union (now see 2 & 3 Vict. c. 84, s. 2, and 7 & 8 Vict. c. 101, s. 62): *Reg. v. Poor Law Commissioners*, in re *St. Andrew-the-Less, Cambridge*, 8 L. J. M. C. 77; 2 P. & D. 323; 9 A. & E. 103.

The poor law commissioners cannot direct a clerk to a board of guardians, as part of his duties, to "prepare or superintend the preparation, and take measures for ensuring the prompt and correct return of all such statistical information and reports as may be required for the public service." An order for the government of a Gilbert's Union containing such a clause was held to be altogether void: *Reg. v. Poor Law Commissioners*, in re *Alstonefield*, 11 A. & E. 558; 9 L. J. M. C. 33; 3 P. & D. 59.

The poor law commissioners may order the guardians of a union to appoint a chaplain for the union workhouse with a salary, as an officer within the meaning of 4 & 5 Will. 4, c. 76, s. 109. It is no objection to such order, that by a previous order, not altered or rescinded, the commissioners authorized the guardians to appoint a chaplain if they should deem it necessary, and specified his duties, in case it shall have been deemed necessary to appoint him: *Reg. v. Braintree*, 1 Q. B. 130; 10 L. J. M. C. 76; 4 P. & D. 593.

The poor law commissioners have a discretionary power of removing a relieving officer of a union when they deem him unfit for his office, without giving him notice of their intention to do so, or hearing what he has to say in his defence: re *Teather and the Poor Law Commissioners*, 19 L. J. M. C. 70; 15 J. P. 36.

The poor law commissioners had power to issue regulations applying to

POWER OF COMMISSIONERS TO DIRECT APPOINTMENT OF OFFICERS—*continued.*

Decisions on sect. 46.
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the appointment and continuance in office of officers of a parish under a local Act: *Reg. v. Poor Law Commissioners*, re *St. James, Westminster*, 17 Q. B. 445; 20 L. J. M. C. 236; 15 J. P. 132.

Guardians of a poor law district, acting under a local statute which empowered them, or any five or more of them, to appoint officers, appointed a master of the workhouse for a year, and, on its expiration, reappointed him for another year. During that year, the poor law commissioners made an order under 4 & 5 Will. 4, c. 76, requiring the guardians from time to time, on the occurrence of any vacancy, to appoint certain officers (among whom was a master of the workhouse) by a majority of the guardians present. Afterwards, and before the master's last-mentioned year of office had expired, the guardians passed a resolution that their officers were officers during pleasure, and that no annual election should take place. This resolution was not sanctioned by the commissioners under stat. 4 & 5 Will. 4, c. 76, s. 22; and after the expiration of the year of office they ordered the guardians to appoint a master of the workhouse, which was not done: Held, on motion for a *mandamus*, that the first-mentioned order of the commissioners was within their general jurisdiction under stat. 4 & 5 Will. 4, c. 76, that the resolution of the guardians, unsanctioned by the commissioners, could not be alleged in answer; and that there was, at the end of the second year of office, a vacancy, which ought to have been filled up as the commissioners had directed: *Reg. v. Oxford*, 17 Q. B. 458.

The Poor Law Board had power under this section to direct the appointment of an auditor for a parish under a local Act, notwithstanding it had adopted the provisions of the 1 & 2 Will. 4, c. 60, and had since the passing of the 18 & 19 Vict. c. 120, appointed auditors under the latter Act: *Reg. v. St. Pancras*, E. B. & E. 583; S. C. *Reg. v. Stockton*, 22 J. P. 385; 5 Jur. (N. S.) 120; 27 L. J. M. C. 281; *Reg. v. St. James, Westminster*, 28 L. J. (N. S.) M. C. 172; 24 J. P. 37; 33 L. T. 346.

LIABILITY OF SURETIES OF OFFICERS.

The giving security is not a condition precedent to the validity of the appointment, for it is complete without such security being given: *Rex v. Patteson*, 4 B. & Ad. 9.

The surety of a union treasurer is not liable if the money be paid into a bank instead of directly to him as treasurer: *Mills v. Alderbury*, 18 L. J. Exch. 252.

The treasurer to the guardians of the L. union was a banker, and on Friday, 28th December, 1855, several orders of the guardians were presented by their clerk at his bank, and paid partly in cash, the residue in 5*l.* bank-notes of the bank. At about eleven o'clock of the morning of the following Monday other orders of the guardians were presented by their clerk, and paid partly in cash, the residue in 200*l.* of similar bank-notes, and a common banker's draft upon bankers in London, 4*l.* 19*s.* 8*d.* was received in exchange for a draft by the guardians in favour of persons in London. At three o'clock in the afternoon of the same Monday, the bank stopped payment, and on the following day the treasurer was declared a bankrupt. At the time the orders were presented the treasurer had in his hands money of the guardians sufficient to meet them. At the time the bank stopped payment the guardians had in their hands 95*l.* of the notes received on the Friday, and the 200*l.* received on the Monday; the draft on London was returned dishonoured: Held, on an action against the surety of the treasurer to recover these amounts, that the surety was not liable, because, as to the notes received on Friday, the guardians by keeping them

XLVII. Every overseer, treasurer, or other person having the collection, receipt, or distribution of the monies assessed for the relief of the poor in any parish or union, or holding or accountable for any balance or sum of money, or any books, deeds, papers, goods, or chattels relating to the relief of the poor, or the collection or distribution of the poor rate of any parish or union, shall, once in every quarter (a), in addition to the annual account now by law required (b), and where the rules, orders and regulations of the said commissioners shall have come in force, then as often as the said rules, orders, and regulations shall direct, but not less than once in every quarter, make and render to the guardians, auditors (c), or such other persons as by virtue of any statute or custom, or of the said rules, orders, or regulations, may be appointed to examine, audit, allow or disallow such accounts, or in default of any such guardian, auditor, or other person being so appointed as afore-said, then to the justices of the peace at their petty sessions for the division in which such parish or union shall be situate, a full and distinct account in writing of all monies, matters, and things committed to their charge, or received, held, or expended by them on behalf of any such parish or union, and if thereunto required by the justices, guardians, auditors, or other persons authorized in that behalf, shall verify on oath

Overseers, &c.
to pass
accounts quar-
terly.

(a) See 7 & 8 Vict. c. 101, s. 38.

(b) See 43 Eliz. c. 2; 17 Geo. 2, c. 38; and 50 Geo. 3, c. 49.

(c) See 7 & 8 Vict. c. 101, s. 33.

LIABILITY OF SURETIES OF OFFICERS—continued.

in their hands over the Saturday, had elected conclusively to treat them as payment. As to the notes received on Monday (as well as those of Friday), they, by receiving notes, and, as to the draft upon London, by receiving the draft, when in both cases they might have demanded cash, had satisfied the obligation of the surety: *Lichfield v. Greene*, 21 J. P. 198; 1 H. & N. 884; 26 L. J. Exch. 140; 3 Jur. (N. S.) 244. *Decisions on sect. 46.*

A treasurer of a union who was a corn dealer, received corn from the overseers, debiting the value as received by him, and crediting the overseers with the value as contributions to the union. He became a defaulter, and his sureties were held liable for the balance due from him: *Bedford v. Pattison*, 25 L. J. Exch. 91; 1 Jur. (N. S.) 116; 1 H. & N. 523; 21 J. P. 181.

MANDAMUS TO ADMIT OFFICER.

The court refused a *mandamus* to a board of guardians to admit one J. J. to be their clerk, on the ground that he had a majority of legal votes over one R. J. who had been admitted; it being proposed to institute a scrutiny as to the legal appointment of the guardians themselves: *Reg. v. Dolgelly*, 8 A. & E. 561; 7 L. J. M. C. 99; 3 N. & P. 542.

AUTHORITY OF CHAPLAIN OF WORKHOUSE.

A clergyman of the Church of England, duly appointed chaplain of a union workhouse, may perform the service of the Church of England in the workhouse without the consent of the incumbent of the parish in which the workhouse is locally situated: *Molyneux v. Bagshaw*, 8 L. T. (N. S.) 331; 9 Jur. (N. S.) 553. See also 34 & 35 Vict. c. 66, s. 2.

Recovery of
balances.

Surety not to
be discharged.

Masters of
workhouses
and parish
officers to be
under order of
board, and
removable by
them

the truth of all such accounts and statements from time to time respectively, or subscribe a declaration to the truth thereof in manner and under the penalties in this Act provided for parties giving false evidence or refusing to give evidence under the provisions of this Act; and all balances due from any guardian, treasurer, overseer, or assistant overseer, or other person having the control and distribution of the poor rate, or accountable for such balances, may be recovered in the same manner as any penalties and forfeitures are recoverable under this Act (a): Provided nevertheless, that no such proceeding shall exonerate or discharge the liability of the surety of any such treasurer, overseer, assistant overseer, or other person as aforesaid (b).

XLVIII. The said commissioners may and they are hereby authorized and empowered, as and when they shall think proper, by order under their hands and seal, either upon or without any suggestion or complaint in that behalf from the overseers or guardians of any parish or union, to remove any master of any workhouse, or assistant overseer, or other paid officer of any parish or union whom they shall deem unfit for or incompetent to discharge the duties of any such office, or who shall at any time refuse or wilfully neglect to obey and carry into effect any of the rules, orders, regulations, or bye-laws of the said commissioners, whether such union shall have been made or such officer appointed before or after the passing of this Act, and to require from time to time the persons competent in that behalf to appoint a fit and proper person in his room; and that any person so removed shall not be competent to be appointed to or to fill any paid office connected with the relief of the poor in any such parish or union, except with the consent of the said commissioners under their hands and seal: Provided always, that no person shall be eligible to hold

(a) See sect. 99.

(b) See also 7 & 8 Vict. c. 101, s. 49.

LIABILITY TO ACCOUNT TO AUDITOR.

*Decisions on
sect. 47.*

An indictment against an overseer under 4 & 5 Will. 4, c. 76, s. 47, for not accounting to the auditor on his request, is bad, unless it appear that there was some rule, order, or regulation of the commissioners that the overseers should account on request of the auditor: *Reg. v. Crossley*, 10 A. & E. 132.

Directors of the poor, though they may have accounted to their own auditor under their local Act, are not thereby exempted from accounting to the union auditor, under 4 & 5 Will. 4, c. 76, s. 47. The officers accounting for the receipt and expenditure of the poor rate must account to the auditor for all sums collected under the denomination of poor rate, and expended for any purpose (as watching, police, &c.) to which by local or general Acts the poor rate is applicable, and not for those sums only which are raised and laid out strictly for the relief and management of the poor: *Reg. v. St. Andrew Holborn-above-Bars, and St. George the Martyr*, 6 Q. B. 78; 8 J. P. 391. See also *Reg. v. Bristol*, 18 L. J. M. C. 132; in error, 19 L. J. M. C. 116.

any parish office, or have the management of the poor in any way whatever, who shall have been convicted of felony, fraud, or perjury (c).

XLIX. Any contract which shall be entered into by or on behalf of any parish or union for or relating to the maintenance, clothing, lodging, employment, or relief of the poor, or for any other purpose relating to or connected with the general management of the poor, which shall not be made and entered into in conformity with the rules, orders, or regulations of the said commissioners in that behalf in force at the time of making and entering into the same, or otherwise sanctioned by them, shall be voidable, and, if the said commissioners shall so direct, shall be null and void; and all payments made under or in pursuance of any contract not made and entered into in conformity with such rules, orders, or regulations at any period after the said commissioners shall have declared the same to be null and void as aforesaid, shall be disallowed in passing the accounts of the overseer, guardian, or other officer by whom such payments shall have been made (d).

Contracts not to be valid, unless conformable to the rules of commissioners.

(c) See 5 & 6 Vict. c. 57, s. 14; c. 105, s. 3, and 33 & 34 Vict. c. 23, 12 & 13 Vict. c. 13, s. 5; 13 & 14 Vict. c. 57, s. 6; 14 & 15 Vict. s. 2.

(d) See 55 Geo. 3, c. 137, s. 7; and 12 & 13 Vict. c. 13, s. 6.

AUTHORITY TO REMOVE CHAPLAIN OF WORKHOUSE.

The Poor Law Board, and not the bishop of the diocese, have the power *Decision on* to remove the chaplain of a union workhouse: *Ex parte Molyneux*, 27 J. P. *sect.* 48. 56.

CONTRACTS WITH GUARDIANS.

The guardians cannot bind themselves by an order not under seal for making a survey and map, according to 6 & 7 Will. 4, c. 96, s. 3, of the rate-able property in a parish; for such order is not a contract necessarily incident to the purposes for which the guardians were made a corporation, by 5 & 6 Will. 4, c. 69, s. 7, and 5 & 6 Vict. c. 57, s. 16; nor can the guardians bind themselves by a contract without seal, to remunerate a surveyor for attending as a witness on appeal against a poor rate: *Paine v. Strand Union*, 8 Q. B. 326; 15 L. J. M. C. 89; 10 J. P. 391. *Decisions on sect.* 49.

If work be done for a corporation (board of guardians) for purposes connected with the corporation under a verbal order, and accepted and adopted by them, they cannot in an action to recover the price, object that no order was given under seal: *Sanders v. St. Neots*, 8 Q. B. 810; 15 L. J. M. C. 104; 10 J. P. 261, 279.

In a workhouse building contract a clause was inserted, that no deviations or additions should be paid for unless the same should have been ordered in writing; additional work was done which had not been ordered in writing, but which had been directed by the architects. A bill being filed to obtain payment of the balance, it was held on demurrer, that notwithstanding the contract the defendants by their conduct had acquiesced in and laid themselves under an obligation to pay for the additional work; but on appeal to the Lord Chancellor, the judgment of the court below was reversed: *Kirk v. Bromley*, 16 L. J. Ch. 114; on appeal, 17 L. J. Ch. 127.

If guardians give orders to a tradesman to put up waterclosets in their workhouse, and he puts them up, and the guardians approve and accept

Repeal of
45 Geo. III.
c. 54, as to
contracts.

L. From and after the passing of this Act, a certain Act made and passed in the forty-fifth year of the reign of His said late Majesty King George the Third, intituled "An Act to amend an Act made in the ninth year of King George the First for amending the Laws relating to the Settlement, Employment, and Relief of the Poor, so far as the same respects Contracts to be entered into for the Maintenance and Employment of the Poor" shall be and the same is hereby repealed:

CONTRACTS WITH GUARDIANS—*continued.*

*Decisions on
sect. 49.*

them, they cannot afterwards defend themselves in an action for the price by showing that there was no contract under seal, as the purposes for which the guardians were made a corporation require that they should provide such articles: *Clarke v. Cuckfield*, 21 L. J. Q. B. 349; 16 J. P. 457.

A contract made by the directors and guardians of the poor of the parish of Brighton in relation to the building of an industrial school, was held not to be a contract for "a thing to be done in pursuance of the local Act," and therefore was not required by that Act to be in writing: *Armstrong v. Bowdidge*, 16 C. B. 358.

An action was held not maintainable against a board of guardians, by a collector appointed under an order of the poor law commissioners, for unpaid poundage on rates collected: *Smart v. West Ham*, 24 L. J. Exch. 201; 10 Exch. 867.

An action cannot be maintained by the guardians of a union against the guardians of another union in respect of relief afforded to the non-resident poor of the latter union, unless the accounts of such relief have been transmitted quarterly, in conformity with Art. 202, No. 9, of the Consolidated Order (see Glen's Poor Law Board Orders), notwithstanding that the relief was duly ordered and never countermanded: *Wycombe v. Eton*, 26 L. J. M. C. 97; 21 J. P. 70; 1 H. & N. 687; 28 L. T. 256.

The guardians of a poor law union having reason to believe that their clerk had been guilty of fraud, and that sums of money had been misappropriated, employed an accountant to audit their accounts, or investigate them generally, and make up the books. Resolutions to this effect were from time to time entered in the rough minute book, but there was no contract under the seal of the guardians. It was held by Erle, J. (Crompton, J., *dubitante*), that the plaintiff having done the work agreed upon was entitled to recover, although the contract was not under seal: *Haigh v. North Bierley*, 31 L. T. 213; 22 J. P. (n.) 384; 28 L. J. (n.s.) Q. B. 62; 5 Jur. (n.s.) 511; 4 E. B. & E. 873.

On the subject of contracts by corporations, *ultra vires*, of the contracting parties the following remarks were made by Cranworth, L. C.: "When the legislature constitutes a corporation, it gives to that body *prima facie* an absolute right of contracting. But this *prima facie* right does not exist in any case where the contract is one which, from the nature and object of incorporation, the corporate body is expressly or impliedly prohibited from making; such a contract is said to be *ultra vires*." *Shrewsbury and Birmingham Railway Company*, apps., *London and North Western Railway Company*, *Shropshire Union Railway Coal Company*, and *Glyn and Cwm*, resps., 3 Jur. (n.s.) 781.

The fact that a contract for the supply of coal for the use of a workhouse was not under seal of the guardians, was held (approving of *Clarke v. Cuckfield*, *supra*), to be no defence to an action for the price of the coal: *Nicholson v. Bradfield*, 7 B. & S. 774; 35 L. J. Q. B. 176; 14 L. T. (n.s.) 830; 12 Jur. (n.s.) 686; 1 L. R. Q. B. 621.

Provided always, that nothing in this Act contained shall extend or be construed to extend or affect or make void any bond or other security which shall have been entered into or given before the passing of this Act, under or in pursuance of the provisions of the said Act hereby repealed.

LII. So much of a certain Act, made and passed in the fifty-first year of the reign of His said late Majesty King George the Third, intituled "An Act to prevent poor Persons in Workhouses from Embezzling certain Property provided for their Use; to alter and amend so much of an Act of the thirty-sixth Year of His present Majesty as restrains Justices of the Peace from ordering Relief to Poor Persons in certain Cases for a longer Period than one Month at a Time; and for other Purposes therein mentioned, relating to the Poor" (a) as inflicts a penalty on persons having the management of the poor if concerned in providing or in any contract for the supply of any goods, materials, or provisions, for the use of any workhouse or workhouses, or otherwise for the support or maintenance of the poor for their own profit, and all remedies for the recovery of such penalties, shall apply and the same are hereby extended and made applicable to every *commissioner, assisstant commissioner* (b), guardian, treasurer, master of a workhouse, or other officer to be appointed under the provisions of this Act (c).

The penalty imposed by 55 Geo. III. c. 137, on persons having the management of the poor being concerned in any contract extended to persons appointed under this Act.

LIII. And whereas a practice has obtained of giving relief to persons or their families who, at the time of applying for or receiving such relief, were wholly or partially in the employment of individuals, and the relief of the able-bodied and their families is in many places administered in modes productive of evil in other respects: And whereas difficulty may arise in case any immediate and universal remedy is attempted to be applied in the matters aforesaid; Be it further enacted, that from and after the passing of this Act, it shall be lawful for the said commissioners, by such rules, orders, or regulations, as they may think fit, to declare to what extent and for what period the relief to be given to able-bodied persons or to their families in any particular parish or union may be administered out of the

Commissioners to regulate the relief to able-bodied paupers and their families out of the workhouse.

(a) See 55 Geo. 3, c. 137, s. 6.

(b) See 10 & 11 Vict. c. 109; and 34 & 35 Vict. c. 70.

(c) See sect. 77.

ILLEGAL SUPPLY OF GOODS TO WORKHOUSE.

A criminal information does not lie against a ratepayer in a union who *bonâ fide* and without malice accuses, in a letter to the chairman of a board of guardians, one of the guardians of contracting to supply the poor within the union with goods, and also with supplying those goods of inferior quality: *Reg. v. Goodwin*, 21 J. P. 742. *Decisions on sect. 51.*

A guardian supplied oat-chaff to the order of the master of the workhouse of the union, for the use of the inmates, and was paid for it by the master, who debited the guardians with the amount: Held, that although the master might not have had authority to order the goods, the guardian was subject to the penalty under the 53 Geo. 3, c. 137, s. 6; 4 & 5 Will. 4, c. 76, s. 51: *Greenhow v. Parker*, 31 L. J. M. C. 22; 26 J. P. 24.

Relief contrary to their regulations to be disallowed :

But overseers may delay the operation of such regulations under special circumstances, and make report thereof to commissioners.

If commissioners disapprove of delay, they may fix a day from which all such relief shall be disallowed.

Cases of emergency.

workhouse of such parish or union, by payments in money, or with food or clothing in kind, or partly in kind and partly in money, and in what proportions, to what persons or class of persons, at what times and places, on what conditions, and in what manner such out-door relief may be afforded (*a*) ; and all relief which shall be given by any overseer, guardian, or other person having the control or distribution of the funds of such parish or union, contrary to such orders or regulations, shall be and the same is hereby declared to be unlawful, and shall be disallowed in the accounts of the person giving the same, subject to the exceptions hereinafter mentioned : Provided always, that in case the overseers or guardians of any parish or union to which such orders or regulations shall be addressed or directed shall, upon consideration of the special circumstances of such parish or union, or of any person or class of persons therein, be of opinion that the application and enforcing of such orders or regulations, or of any part thereof, at the time or in the manner prescribed by the said commissioners, would be inexpedient, it shall be lawful for such overseers or guardians to delay the operation of such orders or regulations, or of any part thereof, for any period not exceeding the space of thirty days, to be reckoned from the day of the receipt of such orders or regulations ; and such overseers or guardians shall, twenty days at the least before the expiration of such thirty days, make a statement and report of such special circumstances to the said commissioners ; and all relief which shall be given by such overseers or guardians, before an answer to such report shall have been returned by the said commissioners, if otherwise lawful, shall not be deemed unlawful, although the same shall have been given contrary to such orders or regulations, or any of them ; but in case the said commissioners shall disapprove of such delay, or think that for the future such orders or regulations ought to come into operation, notwithstanding the special circumstances alleged by such overseer or guardian, it shall be lawful for the said commissioners, by a peremptory order, to direct that from and after a day to be fixed thereby such orders and regulations, or such parts or modifications thereof as they may think expedient and proper, shall be enforced and observed by such overseers and guardians ; and if any allowance be made or relief given by such overseers or guardians after the said last-mentioned period, contrary to any such last-mentioned order, the amount of the relief or allowance so given shall be disallowed in the accounts of the party giving the same : Provided also that a quarterly report of all such cases as shall occur in any quarter shall, at the end of every such quarter be laid by the said commissioners before one of His Majesty's principal secretaries of state : Provided also, that in case the overseers or guardians of any parish or union in which such orders or regulations shall be in force shall depart from them or any of them in any particular instance or instances of emergency, and shall

(*a*) See also 18 & 19 Vict. c. 34.

within fifteen days after every such departure report the same and the grounds thereof to the said commissioners, and the said commissioners shall approve of such departure, or if the relief so given shall have been given in food, temporary lodging, or medicine, and shall have been so reported as aforesaid, then and in either of such cases the relief granted by such overseers or guardians, if otherwise lawful shall not be unlawful or subject to be disallowed (b).

LIII. An Act passed in the thirty-sixth year of the reign of His late Majesty King George the Third, intituled, "An Act to amend so much of an Act made in the Ninth Year of the Reign of King George the First, intituled, 'An Act for amending the Laws relating to the Settlement, Employment, and Relief of the Poor,' as prevents the distributing occasional Relief to poor Persons in their own Houses, under certain Circumstances and in certain Cases;" and so much of an Act made and passed in the fifty-fifth year of the reign of His late Majesty King George the Third, intituled, "An Act to prevent poor persons in Work-houses from Embezzling certain property provided for their Use, to alter and amend so much of an Act of the Thirty-sixth Year of His present Majesty as restrains Justices of the Peace from ordering Relief to poor Persons in certain Cases for a longer Period than One Month at a Time, and for other Purposes therein mentioned relating to the Poor," as extends the period for which occasional relief may be ordered by any justice or justices to poor persons at their own homes (c) and so much of the said Act made and passed in the fifty-ninth year of the reign of His late Majesty King George the Third, intituled "An Act to amend the Laws for the Relief of the Poor," as empowers any justice or justices to order relief in certain cases for a limited time, or in cases of urgent necessity, or in cases where parishes are under the management of guardians, governors, or directors appointed by special or local Acts, or in cases where parishes have not a select vestry, shall be and the same are hereby repealed (d).

Repeal of
36 Geo. III.
c. 23,
55 Geo. III.
c. 137, ss. 3, 4,
and 59 Geo.
III. c. 12,
ss. 2, 5.

LIV. From and after the passing of this Act the ordering, giving, and directing of all relief to the poor of any parish which, according to the provisions of any of the said recited Acts, or of an Act passed in the first and second years of the reign of His present Majesty, intituled "An Act for the better regulating of Vestries, and for the Appointment of Auditors of Accounts in certain Parishes, in England and Wales (e)," or of this Act, or of any local Acts, shall be under the government and control of any guardians of the poor, or of any select vestry, and whether forming part of any union or incorporation or not (but subject in all cases to, and saving and excepting the powers

No relief to
be in future
given, except
by board of
guardians, &c.
1 & 2 Will. IV.
c. 60.

(b) See the 3 & 4 Wm. & M. c. 11, s. 11; 56 Geo. 3, c. 129, s. 1, and 59 Geo. 3, c. 12, s. 1.

(c) See the 3 & 4 Wm. & M. c. 11, s. 11; 56 Geo. 3, c. 129, s. 1; and 59 Geo. 3, c. 12, s. 1.

(d) See 36 Geo. 3, c. 23; 55 Geo. 3, c. 137; and 59 Geo. 3, c. 12.

(e) See 1 & 2 Will. 4, c. 60.

of, the said commissioners appointed under this Act), shall appertain and belong exclusively to such guardians of the poor or select vestry, according to the respective provisions of the Acts under which such guardians or select vestry may have been or shall be appointed (a); and it shall not be lawful for any overseer of the poor to give any further or other relief or allowance from the poor rate than such as shall be ordered by such guardians or select vestry, except in cases of sudden and urgent necessity, in which cases he is hereby required to give such temporary relief as each case shall require, in articles of absolute necessity, but not in money, and whether the applicant for relief be settled in the parish where he shall apply for relief or not: Provided always, that in case such overseer shall refuse or neglect to give such necessary relief in any such case of necessity to poor persons not settled nor usually residing in the parish to which such overseer belongs, it shall and may be lawful for any justice of the peace to order the said overseer, by writing under his hand and seal, to give such temporary relief in articles of absolute necessity, as the case shall require, but not in money; and in case such overseer shall disobey such order, he shall, on conviction before two justices, forfeit any sum not exceeding five pounds which such justices shall order: Provided always, that any justice of the peace shall be empowered to give a similar order for medical relief (only) to any parishioner, as well as out-parishioner, where any case of sudden and dangerous illness may require it; and any overseer shall be liable to the same penalties as aforesaid for disobeying such order (b): But it shall not be lawful for any justice or justices to order relief to any person or persons from the poor rates of any such parish, except as hereinbefore provided.

Any justice may give order for medical relief in dangerous illness.

Masters of workhouses and overseers to keep registers.

LV. From and after the passing of this Act the master of every workhouse, or such other paid officer of the parish or union as the said commissioners may direct, shall, on such day and in such form as the said commissioners shall appoint, take an account of, and register in a book to be provided at the expence of the parish or union to which such workhouse shall belong, and to be kept specially for that purpose (c), the name of every poor person who shall on such days be in the receipt of relief at or in such workhouse, together with such particulars respecting the families and settlement of every such poor person, and his and their relief and employment, as the said commissioners shall think fit; and in like manner on such day as the said commissioners shall appoint, the overseer of the poor of every such parish shall register in a book to be provided and kept as aforesaid, the name of every poor person then in the receipt of relief in such parish out of the

(a) See 6 & 7 Will. 4, c. 86; 1 Vict. c. 22; 6 & 7 Will. 4, c. 85, s. 6; 6 & 7 Will. 4, c. 96, s. 3; 3 & 4 Vict. c. 29; 5 & 6 Will. 4, c. 69, s. 3.

(b) See 11 & 12 Vict. c. 110, s. 2.

(c) See 3 & 4 Wm. & M. c. 11, s. 11; 9 Geo. 1, c. 7, s. 2; 2 Geo. 3, c. 22; 7 Geo. 3, c. 39.

workhouse, together with such particulars respecting the family and settlement of every such poor person, and his and their relief and employments, as the said commissioners shall think fit; and after such account shall have been so taken and registered as aforesaid, a similar register and account shall be kept by the like persons respectively of all persons who shall receive relief at or in or out of a workhouse, when and as often as such relief shall be granted.

LVI. From and after the passing of this Act all relief given to or on account of the wife, or to or on account of any child or children under the age of sixteen, not being blind or deaf and dumb, shall be considered as given to the husband of such wife, or to the father of such child or children, as the case may be, and any relief given to or on account of any child or children under the age of sixteen of any widow, shall be considered as given to such widow (*d*); Provided always, that nothing herein contained shall discharge the father and grandfather, mother and grandmother, of any poor child, from their liability to relieve and maintain such poor child in pursuance of the provisions of a certain Act of parliament passed in the forty-third year of the reign of Her late Majesty Queen Elizabeth, intituled, "An Act for the Relief of the Poor" (*e*). Poor persons liable for relief to wife or children.

LVII. Every man who from and after the passing of this Act shall marry a woman having a child or children at the time of such marriage, whether such child or children be legitimate or illegitimate, shall be liable to maintain such child or children as a part of his family, and shall be chargeable with all relief, or the cost price thereof, granted to or on account of such child or children until such child or children shall respectively attain the age of sixteen, or until the death of the mother of such child or children; and such child or children shall, for the purposes of this Act, be deemed a part of such husband's family accordingly (*f*). Husband liable to maintain children of wife born before marriage.

(*d*) See 24 & 25 Vict. c. 55, s. 2; c. 12, s. 26; 7 & 8 Vict. c. 101, s. 25; and 33 & 34 Vict. c. 93, s. 14. 11 & 12 Vict. c. 110, s. 8.

(*e*) See 43 Eliz. c. 2, s. 6; 59 Geo. 3, (*f*) See 7 & 8 Vict. c. 101, ss. 5, 6, and 24 & 25 Vict. c. 55, s. 2.

CHILD BORN IN ENGLAND OF IRISH PARENTS.

The 4 & 5 Will. 4, c. 76, s. 56, (assuming that it defines the age of emancipation to be 16, and prevents the head of a family becoming chargeable by relief given to a child after that age) is not applicable to the case of the child of Irish parents born in England, and not settled in England, inasmuch as it extends only to English and Welsh poor: *Rees v. Mile End Old Town*, 4 A. & E. 196; 5 L. J. M. C. 42; 5 N. & M. 581. Decision on sect. 56.

SETTLEMENT OF CHILDREN AFTER MARRIAGE OF MOTHER.

Where an order of affiliation was made before 4 & 5 Will. 4, c. 76, and after that Act the mother married a man able to maintain the child, it was held that the order thereupon was suspended, at least while the husband Decisions on sect. 57.

Such relief as commissioners may direct to be considered as loan.

Power to justices to attach wages in hands of master or employer.

LVIII. From and after the passing of this Act, any relief or the cost price thereof, which shall be given to or on account of any poor person above the age of twenty-one, or to his wife, or any part of his family under the age of sixteen, and which the said commissioners shall by any rule, order, or regulation declare or direct to be given or considered as given by way of loan, and whether any receipt for such relief, or engagement to repay the same, or the cost price thereof, or any part thereof, shall have been given or not by the person to or on account of whom the same shall have been so given, shall be considered and the same is hereby declared to be a loan to such poor person.

LIX. In all cases where any relief shall have been given by way of loan, or where any relief, or the cost price thereof, shall be treated as a loan, under the rules, orders, and regulations of the said commissioners, or the provisions of this Act, it shall be lawful for any justice, upon the application of the overseers or guardians of the parish or union providing such relief, and upon proof of the same having been given to or on account of any such person, his wife or family as aforesaid, and of the same, or any part thereof, still remaining due, to issue a summons, requiring such person, as well as the

SETTLEMENT OF CHILDREN AFTER MARRIAGE OF MOTHER—continued.

Decisions on
sect. 57.

was of such ability, and, *semble*, it was suspended so long as, according to section 57, the husband was liable to maintain the child, whether able or not: *Laing v. Spicer*, 5 L. J. M. C. 60; 1 M. & W. 129; Tyrw. & Gr. 358.

On the marriage of a widow having children under the age of 16, such children do not acquire the settlement of the second husband by 4 & 5 Will. 4, c. 76, s. 57: *Rex v. Walthamstow*, 6 A. & E. 301; 1 N. & P. 460; 6 L. J. M. C. 52.

A single woman settled in C., bore a child before 4 & 5 Will. 4, c. 76, and it was placed for nurture in W.; she then married and lived with her husband in K., the child remaining in W., to which it became chargeable while under the age of 16, and was removed to C.: Held, that the removal was proper and consistent with 4 & 5 Will. 4, c. 76, s. 57: *Reg. v. Wendron*, 7 A. & E. 819; 3 N. & P. 62; 7 L. J. M. C. 22.

The children of a woman who has married a second husband, and has gained his settlement, may, although under the age of 16, be separated from their mother, and removed to their place of settlement on the husband becoming unable to support them. It appeared by the special case, but had not been put as a ground of appeal, that one of the children was under the age of nurture; but the court refused to quash so much of the order as directed the removal of that child from its mother: *Reg. v. Stafford*; *Reg. v. Costock*, 1 P. & D. 414; 10 A. & E. 417; 8 L. J. M. C. 62.

RELIEF ON LOAN.

Decision on
sect. 58.

A parent is bound to provide Christian burial for the body of a deceased child if he has the means; but if he has not the means, though the body remains unburied and becomes a nuisance to the neighbourhood, he is not indictable for the nuisance, notwithstanding he could have obtained money for the burial expenses by way of loan from the poor law authorities of the parish; for he is not bound to incur a debt: *Reg. v. Vann*, 21 L. J. M. C. 39.

master or employer of such person, or some person on his behalf, to appear before any two justices, at a time and place to be named in such summons, to show cause why any wages due, or which may from time to time become due, from such master or employer, should not be paid over, in whole or in part, to such overseers or guardians, and if no sufficient cause be shown to the contrary, or if such person, or some one on his behalf, shall not appear on the return of such summons, then the said justices shall, by order under their hands, direct the master or employer for the time being from whom any wages shall be due or from time to time become due or payable to such poor person, to pay, either in one sum or by such weekly or other instalments as the said justices shall in their discretion think fit, taking into consideration the circumstances of such poor person and his family, out of such wages, to such overseers or guardians, the amount of such relief, or so much thereof as shall from time to time be due or unpaid; and the payment to and receipt of any such overseer or guardian shall be a good discharge to such master or employer for so much of any such wages as shall be so paid by virtue of any such order; and if any such master or employer shall refuse or neglect to pay to the overseer or guardian producing any such order the money thereby directed to be paid according to the terms of such order, and at the periods thereby fixed for such payment, the same may be levied and recovered, and the payment thereof from time to time enforced against such master or employer, in such and the like manner as penalties and forfeitures are recoverable under this Act (a).

Mode of proceeding against masters for recovery thereof.

LX. From and after the passing of this Act so much of an Act passed in the forty-third year of the reign of His said late Majesty King George the Third, intituled "An Act for consolidating and amending the several Laws for providing Relief for the Families of Militiamen in England when called out into actual Service," as directs overseers of the poor, by order of some one justice of the peace, to pay to the family of any person serving or enrolled as a ballotted man, substitute, hired man, or volunteer in the militia of England, a weekly allowance, or as authorizes any justice or justices to order such allowance to be paid under the rules and conditions in the said recited Act provided, or as in any way discharges such ballotted man, substitute, hired man, or volunteer from the liability to maintain or repay the costs of maintenance of his family or any part thereof, or as prevents such families or any part thereof from being removable to their place of legal settlement, or sent to any workhouse, by reason of their receiving any allowance, or being chargeable, shall be and the same is hereby repealed.

Repeal of so much of 43 Geo. III. c. 47, as requires relief to be given to wives and families of substitutes, hired men, or volunteers of militia.

LXI. From and after the period at which any rule, order, or Justices to regulation of the said commissioners shall come into operation certify that

(a) See 59 Geo. 3, c. 12, s. 29; 1 & 2 Will. 4. c. 37, ss. 7, 19, 20; and 11 & 12 Vict. c. 110, s. 8.

rules of commissioners have been complied with in binding poor children apprentices.

Justices' power reserved as between master and apprentice.

Power to owners and ratepayers to raise money on security of rates for purposes of emigration.

for the binding of poor children apprentices, in addition to such assent or consent, order or allowance of justices, as are now required by law, such justices or any one justice are and is hereby authorized and required to examine and ascertain whether the rules, orders, or regulations of the said commissioners then in force for the binding of poor children apprentices have been complied with, and to certify the same at the foot of every such contract or indenture, and of the counterpart thereof, in such form and manner as the said commissioners, by such rules, orders, or regulations may direct, and until so certified no such contract or indenture of apprenticeship shall be valid: Provided nevertheless, that nothing in this Act, or in any rule, order, or regulation of the said commissioners, shall affect the jurisdiction of any justices of the peace over any master or apprentice during the period of apprenticeship (a).

LXII. It shall and may be lawful for the rate-payers in any parish, and such of the owners of property therein as shall, in manner hereinbefore mentioned, have required their names to be entered in the rate books of such parishes respectively as entitled to vote as owners, assembled at a meeting to be duly convened and held for the purpose, after public notice of the time and place of holding such meeting, and the purpose for which the same is intended to be held, shall have been given in like manner as notices of vestry meetings are published and given, to direct that such sum or sums of money, not exceeding half the average yearly rate for the three preceding years, as the said owners and rate-payers so assembled at such meeting may think proper, shall be raised or borrowed as a fund, or in aid of any fund or contribution for defraying the expences of the emigration of poor persons having settlements in such parish, and willing to emigrate, to be paid out of or charged upon the rates raised or to be raised for the relief of the poor in such parish, and to be applied under and according to such rules, orders, and regulations as the said commissioners shall in that behalf direct: Provided always, that no such direction for raising money for such purpose as aforesaid shall have any force or effect unless and until confirmed by the said commissioners, and that the time to be limited for the repayment of any sum so charged on such rates as aforesaid shall in no case exceed the period of five years from the time of borrowing the same: Provided also, that all sums of money so raised as last hereinbefore mentioned, and advanced by way of loan, for the purposes of emigration, or such proportion thereof as the said commissioners shall by any rule, order, or regulation from time to time direct, shall be recoverable against any such person,

(a) See 43 Eliz. c. 2. s. 3; 20 Geo. 2, Geo. 4, c. 32; 4 Geo. 4, c. 29; 3 & 4 c. 19; 6 Geo. 3, c. 25; 32 Geo. 3, Will. 4, c. 63; 5 & 6 Vict. c. 99; c. 57; 33 Geo. 3, c. 55; 42 Geo. 3, 7 & 8 Vict. c. 101, ss. 12, 13; 14 & 15 c. 46; 51 Geo. 3, c. 80; 54 Geo. 3, Vict. c. 11. c. 107; 56 Geo. 3, c. 139; 1 & 2

being above the age of twenty-one years, who or whose family, or any part thereof, having consented to emigrate, shall refuse to emigrate after such expences shall have been so incurred, or having emigrated shall return, in such and the like manner as is hereinbefore provided with respect to relief, or the cost price of relief, given or considered to be given by way of loan to any person, his wife or family (b).

LXIII. Where it shall be lawful, under the provisions of any of the herein recited Acts, or of any local Act, or of this Act, to raise or borrow any sum or sums of money for the purpose of purchasing, building, altering, or enlarging any workhouse or workhouses in any parish, or union, or for purchasing land whereon to build the same, or for defraying the expences of the emigration of poor persons having settlements in any parish, and being willing to emigrate, it shall be lawful for the overseers or guardians of such parish or union, with the consent of the said commissioners, to be testified under their hands and seal, to make application for an advance of any sum necessary for any such purposes to the commissioners appointed under an Act made and passed in the fifty-seventh year of the reign of His late Majesty King George the Third, intituled, "An Act to authorize the issue of Exchequer Bills, and the advance of Money out of the Consolidated Fund, to a limited amount, for the carrying on of Public Works and Fisheries in the United Kingdom, and Employment of the Poor in Great Britain, in manner therein mentioned," and of any Act or Acts passed for amending or continuing the same; and the said exchequer bill loan commissioners are hereby empowered to make such advances upon any such application as aforesaid, upon the security of the rates for the relief of the poor in such parish or union, and without requiring any further or other security than a charge on such rates.

Overseers may apply to commissioners of exchequer bills under Act 57 Geo. III. c. 34, for advance of money.

LXIV. From and after the passing of this Act no settlement shall be acquired by hiring and service, or by residence under the same (c), or by serving an office (d).

Repeal of settlement by hiring and service.

(b) See 7 & 8 Vict. c. 101, s. 29; 9 & 10 Will. 3, c. 11; 12 Anne, 11 & 12 Vict. c. 110, s. 5; 12 & 13 c. 18, s. 2; 33 Geo. 3, c. 54, s. 24; Vict. c. 103, s. 20; 13 & 14 Vict. 35 Geo. 3, c. 101, ss. 1, 3.

(c) The statutes relating to settlement by hiring and service are the 14 Car. 2, c. 12, ss. 1, 3; 1 Jac. 2, c. 17, s. 3; 3 & 4 Wm. & M. c. 11, ss. 3, 4, 7; 8 & 9 Will. 3, c. 30, s. 6; 35 Geo. 3, c. 102, s. 4.

(d) See 3 & 4 Wm. & M. c. 11, s. 7; 8 & 9 Will. 3, c. 30, s. 4; 9 & 10 Will. 3, c. 11; 1 & 2 Will. 4, c. 41, s. 12; 9 Geo. 1, c. 7, s. 6; 46 Geo. 3, c. 65, s. 213; 21 Geo. 2, c. 10; 18 Geo. 3, c. 26; 43 Geo. 3, c. 161; 35 Geo. 3, c. 102, s. 4.

SETTLEMENT BY HIRING AND SERVICE.

Pauper served for a year continuously under two successive contracts, the first a hiring for less than a year, the second a yearly hiring; after she had so served for a year, and before the term of yearly hiring had expired, the 4 & 5 Will 4, c. 76, passed: Held, that no settlement was gained under sects. 64 and 65 of that Act: *Rex v. Rettendon*, 6 A. & E. 296.

Decisions on sect. 64.

No settlement incomplete under hiring and service to be completed.

LXV. No person under any contract of hiring and service not completed at the time of the passing of this Act shall acquire, or be deemed or adjudged to have acquired, any settlement by reason of such hiring and service, or of any residence under the same.

No settlement acquired without paying poor rate;

LXVI. From and after the passing of this Act no settlement shall be acquired or completed by occupying a tenement, unless the person occupying the same shall have been assessed to the poor rate, and shall have paid the same in respect of such tenement for one year (a).

(a) See 14 Car. 2, c. 12, s. 1; 3 Geo. 4, c. 126, s. 51; 4 Geo. 4, 9 & 10 Will. 3, c. 11; 13 Geo. 3, c. 57; 6 Geo. 4, c. 59; and 1 Will. 4, c. 84, s. 56; 23 Geo. 3, c. 23, s. 1; c. 18.
52 Geo. 3, c. 73; 59 Geo. 3, c. 50;

SETTLEMENT BY HIRING AND SERVICE—continued.

Decisions on
sect. 64.

Service under a hiring for a year, during which the 4 & 5 Will. 4, c. 76, passed, cannot be united with a previous service for the purpose of conferring a settlement, though a year of service was completed before the passing of that Act: *Rex v. St. John the Evangelist*, 6 A. & E. 300.

SETTLEMENT BY HIRING AND SERVICE.

Decisions on
sect. 65.

Pauper being hired as a yearly servant on 30th November, 1828, continued to serve under the hiring till 1837. On 30th November, 1833, and for 40 previous days, she served in P. In March, 1834, and thence till 1837, she resided in M.: Held, that by operation of 4 & 5 Will. 4, c. 76, s. 65, she was settled in P. and not in M.: *Reg. v. St. Pancras*, 5 Q. B. 13; 12 L. J. M. C. 130.

SETTLEMENT BY PAYMENT OF RATES.

Decisions on
sect. 66.

The 4 & 5 Will. 4, c. 76, s. 66, does not apply to settlements acquired by payment of rates: *Reg. v. St. Mary Collender*, 8 L. J. M. C. 54; 6 A. & E. 626; 1 P. & D. 497.

Pauper occupied a tenement of more than 10l. annual value for a year, and paid the rent and poor rates for a year. In the rate the landlord's name was inserted in the owner's column, but in the occupier's column no name was inserted. The pauper gained a settlement as being sufficiently assessed to satisfy 4 & 5 Will. 4, c. 76, s. 66: *Reg. v. Hulme*, 4 Q. B. 538; 12 L. J. M. C. 100; 7 J. P. 370.

Pauper's name was in the rate book as occupier, but when the rate was demanded he referred the overseer to the landlord, who paid it. This was not such a payment of rates as satisfied either 3 Wm. & M. c. 11, s. 6, or 4 & 5 Will. 4, c. 76, s. 66, and no settlement was gained thereby: *Reg. v. South Kilvington*, 13 L. J. M. C. 3.

An entry of the receipt of rates by a deceased clerk of a collector, who was duly appointed, is evidence of payment of rates to satisfy 4 & 5 Will. 4, c. 76, s. 66: *Reg. v. St. Mary, Warwick*, 1 E. & B. 816; 22 L. J. M. C. 409; 17 J. P. 552; 21 L. T. 74; 17 Jur. 551.

Father and son were joint tenants of premises of sufficient value to confer a settlement on both, and the son only was in actual occupation, and the father *bonâ fide* paid the rent himself, the name of the person assessed in the rate-book was "Mr. A.," and the father paid the rates: it was held, that there was evidence to justify the sessions in finding that the son had gained a settlement, under stats. 1 Will. 4, c. 18, and 4 & 5 Will. 4, c. 76, s. 66, by occupation and payment of rent, and by being assessed to the rate and payment thereof: *Reg. v. Hushwaite*, 16 Jur. 1068; 22 L. J. M. C. 189.

LXVII. From and after the passing of this Act no settlement shall be acquired by being apprenticed in the sea service, or to a householder exercising the trade of the seas as a fisherman or otherwise, nor by any person now being such an apprentice in respect of such apprenticeship (a).

LXVIII. No person shall be deemed, adjudged, or taken to retain any settlement gained by virtue of any possession of any estate or interest in any parish, for any longer or further time than such person shall inhabit within ten miles thereof (b); and in case such person shall cease to inhabit within such distance, and thereafter become chargeable, such person shall be liable to be removed to the parish wherein previously to such inhabitancy he may have been legally settled, or in case he may have subsequently to such inhabitancy gained a legal settlement in some other parish, then to such other parish (c).

(a) See 14 Car. 2, c. 12, s. 1; 3 & 4 W. & M. c. 11, s. 8; 31 Geo. 2, c. 11, s. 1.
(b) See 9 Geo. 1, c. 7, s. 5.
(c) See note (a), p. 576.

SETTLEMENT BY APPRENTICESHIP TO SEA SERVICE.

One who before 4 & 5 Will. 4, c. 76, served and resided in a parish 40 days, under an apprenticeship to the sea service, thereby acquired a settlement, and may still retain it, though the term of such apprenticeship did not expire till after the statute had come into operation: *Reg. v. St. Giles-in-the-Fields*, 2 Q. B. 458; 12 L. J. M. C. 52; 7 J. P. 225. *Decision on sect. 67.*

SETTLEMENT BY ESTATE.

By 4 & 5 Will. 4, c. 76, s. 68, a settlement by estate is destroyed when the pauper ceases to inhabit, and is not merely suspended so as to be revived when he returns to inhabit within the limited distance: *Reg. v. St. Giles-in-the-Fields*, 11 L. J. M. C. 18; 2 Q. B. 446; 1 G. & D. 557. *Decisions on sect. 68.*

A removal of a pauper lunatic to the county asylum is a "ceasing to inhabit" within s. 68 of 4 & 5 Will. 4, c. 76: *Reg. v. Whissendine*, 11 L. J. M. C. 42; 2 Q. B. 450; 1 G. & D. 560. But see 16 & 17 Vict. c. 97, s. 95.

The 68th section of 4 & 5 Will. 4, c. 76, applies only to the settlement of the individual who possesses the interest and not to any settlement acquired by derivation through him; so that a son may retain a settlement by estate though the father loses it by ceasing to inhabit within ten miles: *Reg. v. Hendon*, 12 L. J. M. C. 3; 2 Q. B. 455.

The words "within ten miles thereof" in 4 & 5 Will. 4, c. 76, s. 68, mean ten miles measured in a direct line from the residence to the nearest point of the parish where the estate lies: *Reg. v. Saffron Walden*, 9 Q. B. 76; 15 L. J. M. C. 115; 11 J. P. 499.

The 4 & 5 Will. 4, c. 76, s. 68, operates to extinguish the right of the wife and children who were unemancipated at the time of ceasing to inhabit, to a settlement in the parish where the estate lies: *Reg. v. Llan-saintfraid Glan Conway*, 2 E. & B. 803; 22 L. T. 96; 23 L. J. M. C. 5; 18 J. P. 23.

The husband of a pauper having encroached on the waste land of a manor and built three houses thereon, which were let out to tenants, the lord of the manor, after the husband's death, required an acknowledgment from the pauper, the widow, in respect of the land, and thereupon, in consideration of the yearly rent of 25s. and the covenants and services, granted to the widow a lease for 999 years. The pauper resided and slept in one of the

Repeal of Acts relating to liability and punishment of putative father, and punishment of mother of illegitimate children.

LXIX. From and after the passing of this Act so much of any Act or Acts of parliament (a) as enables any single woman to charge any person with having gotten her with any child of which she shall then be pregnant, or as renders any person so charged liable to be apprehended or committed, or required to give security on any such charge, or as enables the mother of any bastard child or children to charge or affiliate any such child or children on any person as the reputed or putative father thereof, or as enables any overseer or guardian to charge or make complaint against any person as such reputed or putative father, and to require him to be charged with or contribute to the expences attending the birth, sustentation, or maintenance of any such child or children, or to be imprisoned or otherwise punished for not contributing thereto, or as in any way renders such reputed or putative father liable to punishment or contribution as such, or as enables churchwardens and overseers, by the order of any two justices of the peace, confirmed by the sessions, to take, seize, and dispose of the goods and chattels, or to receive the annual rents or profits of the lands of any putative father of bastard children (b), and so much of any such Act or Acts as renders an unmarried woman with child liable as such to be summoned, examined, or removed, or as renders the mother of any bastard liable as such to be imprisoned or otherwise punished, shall, so far as respects any child which shall be likely to be born or shall be born a bastard after the passing of this Act, or the mother or putative father of such child, be and the same is hereby repealed (c).

Securities and recognizances for indemnity of parishes against children likely to be born bastards to be null and void.

LXX. Every security given or recognizance entered into by any person or persons, or his or their surety, before the passing of this Act, to indemnify any parish or place as to any child or children likely to be born a bastard or bastards, whereof any single woman shall be pregnant at the time of the passing of this Act, or to abide and perform such order or orders as might have been made touching such child or children, pursuant to an Act made and passed in the eighteenth year of the reign of Her said late Majesty Queen Elizabeth, concerning bastards begotten and born out of lawful matrimony,

(a) *i.e.*, 18 Eliz. c. 3; 7 Jac. 1, c. 4, s. 7; 6 Geo. 2, c. 31; 13 Geo. 3, c. 82, ss. 8, 10, 11, 13, 14; 35 Geo. 3, c. 101, s. 6; 49 Geo. 3, c. 68.

(b) See 14 Car. 2, c. 12, s. 19; and 5 Geo. 1, c. 8.

(c) See 18 Eliz. c. 3, s. 1; 14 Car. 2, c. 12, s. 19; 6 Geo. 2, c. 31, s. 1; and 49 Geo. 3, c. 68.

SETTLEMENT BY ESTATE—*continued.*

Decisions on sect. 68.

cottages nearly 12 months, and was rated as owner. The value of the cottages was 130*l.*, and the annual rent 10*l.* Under these circumstances, it was held that it was competent to look beyond the indenture of lease to ascertain the annual value; and that the pauper gained a settlement by estate, though the annual rent reserved by the lease was only 25*s.*: *Calverley v. Bradford*, 12 L. T. (N. S.) 51.

shall be and the same are hereby declared null and void; and every person who shall at the time of the passing of this Act be in custody upon the commitment of any justice or justices for not having given such security or entered into such recognizance shall be discharged (upon the application of such person) by any one of the visiting justices of the gaol in which such person shall be in custody under any such commitment.

Persons in custody for not giving indemnity to be discharged.

LXXI. Every child which shall be born a bastard after the passing of this Act shall have and follow the settlement of the mother of such child until such child shall attain the age of sixteen(*d*), or shall acquire a settlement in its own right, and such mother, so long as she shall be unmarried or a widow, shall be bound to maintain such child as a part of her family until such child shall attain the age of sixteen; and all relief granted to such child while under the age of sixteen shall be considered as granted to such mother(*e*): Provided always, that such liability of such mother as aforesaid shall cease on the marriage of such child, if a female.

Mother of illegitimate children bound to maintain the same.

* * * * *

(*d*) See 54 Geo. 3, c. 170, ss. 2, 3.

(*e*) See s. 78.

ORDER OF MAINTENANCE ON PARISH.

Formerly an order of maintenance might be made on the parish in which a bastard was settled in relief of the parish in which the mother was settled, and to which she had taken the child for nurture: *Rex v. Hemlington*, Cald. 6; 1 Doug. 9. *Decisions on sect. 71.*

EXTENT OF ENACTMENT.

The 4 & 5 Will. 4, c. 76, s. 71, extends only to English and Welsh poor: *Rex v. Mile End Old Town*, 4 A. & E. 196; 5 L. J. M. C. 42.

SETTLEMENT OF ILLEGITIMATE CHILDREN.

By 4 & 5 Will. 4, c. 76, s. 71, the settlement of illegitimate children born after the passing of that Act follows the mother's acquired by marriage after their birth: *Reg. v. St. Mary, Newington*, 4 Q. B. 581; 12 L. J. M. C. 68; 7 J. P. 321.

The 71st section of 4 & 5 Will. 4, c. 76, does not take away the birth settlement which a child born a bastard had before the Act passed, and such child may, after it has attained the age of 16, be removed to the parish of its birth, although the mother, before it had attained that age, had acquired a settlement in a different parish: *Bodenham v. St. Andrew, Worcester*, 1 E. & B. 465; S. C. *St. Andrew, Worcester*, app., *Bodenham*, resp., 22 L. J. M. C. 29; 17 J. P. 360; 20 L. T. 208; 17 Jur. 206.

Where the mother of a bastard child dies before it attains 16 years of age it may be removed to its mother's last place of settlement: *Reg. v. Sutton-under-Brailes*, 25 L. J. M. C. 57; 5 E. & B. 814; 2 Jur. (N. S.) 210; 26 L. T. 198.

Per Blackburn, J.—He had looked into the law, and was clearly of opinion that an illegitimate child of 14 had a right to go where she thought proper: all he had to do was to see that there was no restraint used: *Reg. v. Claydon*, 34 L. T. 46.

No person employed in administration of poor laws to furnish, for his own profit, goods or provisions given in parochial relief.

LXXVII. It shall not be lawful for any person hereafter to be appointed in any parish or union to any office concerned in the administration of the laws for the relief of the poor, or for any person who after the twenty-fifth day of March one thousand eight hundred and thirty-five shall fill any such office, to furnish or supply, for his own profit or on his own account, any goods, materials, or provisions ordered to be given in parochial relief, or to furnish or supply any goods, materials, or provisions for or in respect of the money ordered to be given in parochial relief to any person in such parish or union; and every person holding such office shall, on conviction before any two justices of the peace, be subject to a penalty of five pounds for such offence, one half of which penalty shall be paid to the informer and the other half in aid of the poor rates of such parish or union (*a*).

Sums payable under 43 Eliz. c. 2, s. 7, by relations of poor persons, how recoverable.

LXXVIII. All sums of money which shall be assessed by any justices of the peace on the father, grandfather, mother, grandmother, child or children of any poor person, for the relief or maintenance of such poor person, under or by virtue of the provisions of a certain Act passed in the forty-third year of the reign of Her late Majesty Queen Elizabeth, intituled, "An Act for the Relief of the Poor," or of any Act to amend the same, or of this Act, and all penalties and forfeitures to which any person so assessed by such justices for such relief or maintenance shall be liable for any default in paying the same by virtue of the provisions of any of the said recited Acts or of this Act, shall be recoverable against every person so assessed or charged in like manner as penalties and forfeitures are recoverable under the provisions of this Act (*b*).

No person to be removed till after notice of his being chargeable has been sent to the parish to which order of removal is directed.

LXXIX. From and after the first day of November one thousand eight hundred and thirty-four no poor person shall be removed or removable, under any order of removal from any parish or workhouse, by reason of his being chargeable to or relieved therein, until twenty-one days after a notice in writing of his being so chargeable or relieved, accompanied by a copy or counterpart of the order of removal of such person, *and by a copy of the examination upon*

(*a*) See s. 51; and 55 Geo. 3, c. 12, s. 19; and 5 Geo. 4, c. 83, s. 3; c. 137, s. 6; and 31 & 32 Vict. c. 122, s. 44. and 4 & 5 Will. 4, c. 76, s. 99; and 31 & 32 Vict. c. 122, s. 44.

(*b*) See 43 Eliz. c. 2, s. 6; 14 Car. 2,

LIABILITY TO MAINTAIN ILLEGITIMATE CHILD.

Decisions on sect. 71—continued.

There is no legal obligation on the part of the personal representative of the deceased mother of an illegitimate child under 16 years of age, to pay out of the assets for the expenses of its maintenance incurred after the mother's death: *Ruttinger v. Temple*, 9 L. T. 256; 27 J. P. 724; 9 Jur. (N. S.) 1239; 32 L. J. (N. S.) Q. B. 1.

which such order was made (c), shall have been sent by post or otherwise, by the *overseers* (d) or guardians of the parish obtaining such order, or any three or more of such guardians, to the *overseers* (d) of the parish to whom such order shall be directed: Provided always, that if such *overseers* (d) or guardians as last aforesaid, or any three or more of such guardians, shall by writing under their hands agree to submit to such order, and to receive such poor person, it shall be lawful to remove such poor person according to the tenor of such order, although the said period of twenty-one days may not have elapsed: Provided also, that if notice of appeal against such order of removal shall be received by the *overseers* (d) or guardians of the parish from which such poor person is directed in such order to be removed within the said period of twenty-one days, it shall not be lawful to remove such poor person until after the time for prosecuting such appeal shall have expired, or, in case such appeal shall be duly prosecuted, until after the final determination of such appeal (e).

Such person may be removed if order submitted to;

but not in case of appeal.

- (c) See 11 & 12 Vict. c. 31, ss. 1, 2, 9, 10; and 14 & 15 Vict. c. 165, s. 10.
 (d) See 28 & 29 Vict. c. 79, s. 3.
 (e) See 9 & 10 Vict. c. 66, s. 1.

POOR REMOVAL—NOTICE OF CHARGEABILITY.

Where an order of removal has been served upon a parish under 4 & 5 Will. 4, c. 76, s. 79, but without notice of chargeability, the parish may take advantage of such omission as a ground of appeal: *Reg. v. Brizham*, 8 A. & E. 375; 7 L. J. M. C. 87; 3 N. & P. 408. Overruled by *Reg. v. Recorder of Shrewsbury*, *infra*. *Decisions on sect. 79.*

Notice of chargeability was required to be signed by a majority of the overseers under 4 & 5 Will. 4, c. 76, s. 79: *Reg. v. Westbury*, 5 Q. B. 500; 8 J. P. 532.

In a notice of chargeability the words "has become chargeable" are equivalent to "is chargeable:" *Reg. v. Stockton-on-Tees*, 14 L. J. M. C. 128; 7 Q. B. 520.

A notice of chargeability under 4 & 5 Will. 4, c. 76, s. 79, signed by three or more guardians, is well signed: *Reg. v. St. Mary, Southampton*; *Reg. v. Lambeth*, 14 L. J. M. C. 133; 5 Q. B. 513; 9 J. P. 600.

A child, under the age of nurture need not be named in the notice of chargeability of the mother: *Reg. v. Stockton*, 7 Q. B. 520; 14 L. J. M. C. 128; 9 J. P. 570.

The notice of chargeability must name the paupers: *Reg. v. Gomersal*, 17 L. J. M. C. 103; 12 J. P. 774.

Since the 11 & 12 Vict. c. 31, s. 9, the service of the notice of chargeability together with the other documents, is the only grievance against which a right of appeal exists: *Reg. v. Shrewsbury, Recorder of*, 22 L. J. M. C. 2, 98; 1 E. & B. 711; 17 J. P. 121, 503; overruling *Reg. v. Brizham*, *supra*.

Admitting that the delivery of the documents in the ordinary manner would be service of an order or process within 29 Car. 2 c. 7, s. 6, the transmission of them by post, under s. 79 of 4 & 5 Will. 4, c. 76, where, by the ordinary course of post, they reached on Sunday the hands of the overseers of the parish to whom the order was directed, was not void by 29 Car. 2, c. 7, s. 6: *Reg. v. Leominster*, 26 J. P. (n.) 132, 342; 31 L. J. M. C. 95; 6 L. T. (N. S.) 216; 8 Jur. (N. S.) 793; 2 B. & S. 391.

POOR REMOVAL—COPIES OF EXAMINATIONS.

*Decisions on
sect. 79.*

Under 4 & 5 Will. 4, c. 76, s. 79, a copy of all the examinations taken by the justices who make the order of removal must be sent with the order, whether they contain the evidence which supports the order or not: *Reg. v. Outwell*, 8 L. J. M. C. 27; 1 P. & D. 610; 9 A. & E. 836.

On appeal against an order of removal, it is a good ground of objection, that the copy of examination sent to the appellants, under 4 & 5 Will. 4, c. 79, does not show that the pauper was chargeable: *Reg. v. Black Calverton*, 10 A. & E. 679.

A copy of examination under 4 & 5 Will. 4, c. 76, s. 79, does not give sufficient information of the settlement relied upon if it merely state that the pauper gained a settlement by renting and occupying a tenement of J. T. (naming the landlord), in the township of, &c., of the yearly rent of 10l.; no time being specified. On appeal the appellants may take advantage of such defects, though their notice of grounds of appeal state only that the order of removal, examination, and notice of chargeability, are bad on the face thereof: *Reg. v. Middleton-in-Teesdale*, 9 L. J. M. C. 55; 10 A. & E. 688; 3 P. & D. 473.

The copy examinations under 4 & 5 Will. 4, c. 76, s. 79, must show on the face of it every fact necessary to give the justices jurisdiction to remove the pauper. Where it shows all such particulars, and discloses no irregularity, it cannot be objected on appeal that the evidence was in fact inadmissible, if the objection was not made known to the justices at the examination: *Reg. v. Alternum*, 10 A. & E. 699; 10 L. J. M. C. 46; 1 G. & D. 261.

The copies of all examinations under 4 & 5 Will. 4, c. 76, s. 79, must show on the face of them that they were taken before two justices; it is not sufficient that the justices who take the first examination sign their names to the subsequent examination: *Reg. v. Shipston-upon-Stour*, 13 L. J. M. C. 128; 8 J. P. 535.

POOR REMOVAL—NOTICE OF APPEAL.

The parish of G. gave P. notice of appeal against an order removing H. and his wife, and children of his wife by a former husband, under 16 years of age, from P. to G., stating as ground of appeal that H. was not settled in G., and that the children were settled in P., and not stating what the nature of their settlement was: Held that this was not sufficient notice as to the children, under 4 & 5 Will. 4, c. 76, s. 81. The sessions having refused to receive evidence as to the settlement of the children distinct from that of the husband, a *mandamus* went to them to enter continuances and hear the appeal: *Rex. v. Cornwall JJ.*, 5 A. & E. 134; 5 L. J. M. C. 106; 1 N. & P. 144.

If anything has been untruly stated in a notice of appeal by which respondents have been misled, the statute has not been complied with: *Rex. v. Holbeach*, 5 A. & E. 685; 1 N. & P. 137.

It is not necessary that notice of appeal against an order of removal should be given 14 days before the sessions at which the appeal is intended to be heard. The practice in that respect remains as before this Act: *Reg. v. Draughton*, 9 L. J. M. C. 92; 2 P. & D. 224.

An appellant is not bound by 4 & 5 Will. 4, c. 76, s. 79, to give notice of appeal within 21 days after notice of order of removal being made: *Rex. v. Leicester JJ.*, 4 Dowl. 633.

A notice of appeal alleging a settlement in another parish by renting a tenement is bad if it do not particularize the tenement; it should at any rate give the name of the owner of the premises: *Reg. v. Sussex JJ.*, 10 A. & E. 682; 9 L. J. M. C. 22; 3 P. & D. 42.

In a notice of appeal alleging as the ground of appeal a settlement by hiring and service, the general rule is that the date of the service as well as

POOR REMOVAL—NOTICE OF APPEAL—*continued.*

the employer's name be stated; but if it appear that the appellants could not ascertain it, the strict rule may be dispensed with, and of this the sessions may judge: *Reg. v. Bridgwater*, 10 A. & E. 693; 10 L. J. M. C. 40. *Decisions on sect. 79.*

An order of removal, signed by two justices, B. C. and E. L. K., was in the notice of appeal described as an order made by R. H. C. and E. L. K. This was held to be an immaterial variance: *Reg. v. Denbighshire JJ.*, 10 L. J. M. C. 79; 9 Dowl. 509.

Under 9 Geo. 1, c. 7, s. 8, and 4 & 5 Will. 4, c. 76, s. 81, the sessions cannot entertain an appeal against an order of removal where the notice of appeal and statement of grounds are given, not by the parish officers, but by individual ratepayers stating themselves to be aggrieved by the order: *Reg. v. Colbeck*, 12 A. & E. 161; 9 L. J. M. C. 61.

Where notice of appeal is given under 4 & 5 Will. 4, c. 76, s. 79, within 21 days after service of the order, and the appeal is not prosecuted, and the respondents do not remove the pauper for a considerable time afterwards, the appellants may give fresh notice of appeal under 14 Ca. 2, c. 12, s. 2, when the pauper is actually removed: *Reg. v. Middlesex JJ.*, 9 Dowl. 163.

Where upon an appeal being called at the sessions the respondents required the appellants to prove their notice of appeal, and a witness was accordingly examined who proved service of a notice of appeal, which was objected to as improperly signed, and the sessions dismissed the appeal: Held that *mandamus* might issue to the justices to hear the appeal, as the decision on the validity of the notice was only preliminary to the right of the appellants to be heard: *Reg. v. Surrey JJ.*, 15 L. J. M. C. 46; 10 J. P. 119.

The delivery of grounds of appeal against an order of removal with the notice of appeal is as valid for all purposes as a delivery of them 14 days at least before the sessions begin. The appellants have not, by 11 & 12 Vict. c. 31, s. 9, 21 days plus the 14 days after the delivery of the depositions for giving notice of appeal absolutely, so as to entitle them as of right to have the appeal entered and respited, if after three days have expired there does not remain enough time before the sessions to deliver an effective notice of appeal according to the practice of the sessions; and the sessions may in their discretion refuse to respite if they deem that the appellants have been guilty of unreasonable delay in giving their notice of appeal (overruling *Reg. v. Suffolk JJ.*, 16 L. J. M. C. 36; 11 J. P. 58): *Reg. v. Sussex JJ.*, 34 L. J. M. C. 69; 4 B. & S. 966.

This latter decision, however, does not require the justices to dismiss the appeal; they ought to exercise their discretion in ascertaining whether or not the sessions are the next practicable sessions: *Reg. v. Derbyshire JJ.*, 35 J. P. 663.

Within 21 days after service of an order of removal from W. to P., the overseers of the appellant parish gave notice of appeal to the borough sessions of W., but afterwards discovering that the borough of W. had not a grant of a separate court of quarter sessions, they entered and respited their appeal at the county sessions: Held, first, that the notice was sufficient, inasmuch as the erroneous statement that the appeal would be to the borough sessions might be rejected as surplusage; secondly, that the court would interfere by *mandamus*, because it appeared that the justices had not decided the question as to the reasonableness of the notice, but had treated the objection taken to it as necessarily fatal in point of law. *Reg. v. Bucks JJ.*, 24 L. T. 110.

POOR REMOVAL—NEXT PRACTICABLE SESSIONS TO WHICH APPEAL
TO BE MADE.

An order of removal was served on the 18th March; the next sessions were held on the 8th April; by the practice of the sessions, seven days' notice of appeal was required: Held that since 4 & 5 Will. 4, c. 76, s. 79, the Middle-

POOR REMOVAL—NEXT PRACTICABLE SESSIONS TO WHICH APPEAL TO BE MADE—*continued*.

*Decisions on
sect. 79.*

sex Sessions following were the next practicable sessions for the purpose of appealing: *Reg. v. Herefordshire JJ.*, 8 Dowl. 638.

The 4 & 5 Will. 4, c. 76, ss. 79, 81, did not alter the existing practice of sessions as to the time for giving notice of appeal against orders of removal. It is not necessary, by sect. 79, that notice of appeal should be given within 21 days after the notice of removal thereby required, nor, by sect. 81, that notice of appeal should be given 14 days at least before the sessions: *Rex v. Suffolk JJ.*, 4 A. & E. 319; 5 L. J. M. C. 3.

The statement of the grounds of removal required by sect. 81 may be delivered before the notice of appeal; if delivered with an erroneous notice, nevertheless available if a good notice of appeal incorporating such statement by reference be afterwards served in proper time: *Id.*

As under 4 & 5 Will 4, c. 76, ss. 79, 81, the appellant parish has 21 days to consider of an appeal after service of the order, and is also bound to give 14 days' notice of appeal, the parish was not bound to appeal to the next sessions in November against an order of removal made and suspended on 5th October: *Reg. v. Lancashire JJ.*, 12 L. J. M. C. 110.

An order of removal of a pauper was made on September 6th, and duly served on the 10th. On the 20th the appellants wrote by their clerk to the respondents, stating that inquiry had been made into the case, and setting forth the facts ascertained, and stating, "I shall on these grounds appeal against your order." On the 26th of September the depositions were applied for, and received on the 30th. Then on October the 7th the appellants gave a formal notice of appeal for the "next general quarter sessions." The quarter sessions were held on the 16th of October, at which the appellants did not appear or do anything, but at which the respondents appeared and applied for costs, which were not allowed. On the 20th of October the respondents removed the pauper. On December 23rd a fresh notice of appeal and grounds were served. At the Epiphany sessions the justices declined to hear the appeal: Held, that the justices were right, and that the appellants ought to have entered and respited the appeal at the October sessions: *Reg. v. Peterborough JJ.*, 29 L. T. 124.

POOR REMOVAL—GENERALLY AS TO.

Where in the absence of the usual proof in support of a settlement by apprenticeship, it appeared that the pauper, when a boy, had lived for three years with his master, and then ran away; that 20 years since a fire happened in the apartment in which the pauper's father lived, and destroyed everything he had; that the father and mother of the pauper were both dead; that the pauper's master, and the wife of the latter, were also dead; that the master had left no property at his decease, and that no relatives of his were to be found; that a fellow apprentice of the pauper had seen in his master's hand an indenture which he understood to be the indenture of apprenticeship of the pauper; and that after the pauper had left his master's service he married, and the parish in which he was supposed to have served as an apprentice, relieved his wife by receiving her into the workhouse: Held that this was sufficient evidence to warrant the sessions in presuming a legal binding and service as an apprentice, so as to confer a settlement: *Rex v. St. Marylebone*, 4 D. & R. 475.

The 4 & 5 Will. 4, c. 76, s. 81, extends to objections on the face of the order. *Per Coleridge, J.*, in an order removing parents and children, the omission to state the children's names is not a defect apparent on the face of the order: *Rex v. Witherwick*, 6 A. & E. 273; 6 L. J. M. C. 54; 1 N. & P. 423.

LXXX. The *overseers* (a) or guardians of the parish giving such notice of appeal, or their attorney, or any other person authorized by them, shall, until such appeal shall have been heard and decided, at all proper times have free access to such poor person for the purpose of examining him touching his settlement; and in case it shall be necessary for the more effectual examination of such person that he should be taken out of the removing parish, such overseers or guardians shall be permitted to remove him therefrom for the time which may be necessary for that purpose: Provided always, that the expence of such removal, and of his maintenance during the same, shall be defrayed by the appellant *parish* (a).

In case of appeal the overseers to have access to such poor persons touching his settlement.

LXXXI. After the first day of November one thousand eight hundred and thirty-four, in every case where notice of appeal against such order shall be given (b), the *overseers* (a) or guardians of the parish appealing against such order, or any three or more of such guardians, shall, with such notice, or fourteen days at least before the first day of the sessions at which such appeal is intended to be tried, send or deliver to the *overseers* (a) of the respondent parish a statement in writing under their hands of the grounds of such appeal (c), and it shall not be lawful for the *overseers* (a) of such appellant parish to be heard in support of such appeal unless such notice and statement shall have been given as aforesaid: Provided always, that it shall not be lawful for the respondent or appellant *parish* (a), on the hearing of any appeal, to go into or give evidence of any other

Grounds of appeal to be stated in notice.

(a) See 28 & 29 Vict. c. 79, s. 3.

(b) See s. 79.

(c) See 14 & 15 Vict. c. 105, s. 10.

POOR REMOVAL—GENERALLY AS TO—*continued.*

If there be a material variance under 4 & 5 Will. 4, c. 76, s. 81, though no one is misled, the court will not compel the sessions to go on with the appeal: *Ex parte Brosely*, 7 A. & E. 423; 7 L. J. M. C. 3; 2 N. & P. 355. —

Where an act is required by statute to be done as many days "at least" before a given event, the time must be reckoned exclusive both of the day of the act and that of the event. Therefore a statement of grounds of appeal under 4 & 5 Will. 4, c. 76, s. 81, is not duly served unless 14 days elapse between the day of service and the first day of the sessions at which the appeal is to be tried: *Reg. v. Shropshire JJ.*; *Tibberton v. Newport*, 8 A. & E. 173; 7 L. J. M. C. 56; 3 N. & P. 286; Will. W. & H. 158.

It was no objection to an order of removal, that it directed the officers of the removing parish to convey the pauper to his last place of legal settlement without mentioning the provision in 4 & 5 Will. 4, c. 76, s. 79, that paupers shall not be removed without 21 days' notice, &c.: *Reg. v. Rotherham*, 3 Q. B. 776; 12 L. J. M. C. 17; 6 J. P. 802.

The quarter sessions have no jurisdiction to enter an appeal against an order of removal, on the motion of the respondents (they having received notice of appeal) and to confirm the order in the absence of the appellants. Where the sessions have made a false entry on their records, a *mandamus* lies to compel them to erase it; and will be granted where it is essential to

grounds of removal, or of appeal against any order of removal, than those set forth in such respective order, examination, or statement as aforesaid (*a*).

(*a*) See 11 & 12 Vict. c. 31, s. 2; and 12 & 13 Vict. c. 45, s. 1.

POOR REMOVAL—GENERALLY AS TO—*continued*.

Decisions on
sect. 79.

the furtherance of justice: *Reg. v. York, W.R., JJ. (Sheffield v. Crick)*, 5 Q. B. 1; 12 L. J. M. C. 148; 8 J. P. 244.

If a rule *nisi* for a *mandamus* to hear an appeal has been obtained upon affidavits stating imperfectly the grounds on which the sessions proceeded, and the facts omitted are substantial and material to the case, the court will discharge the rule with costs: *Reg. v. York, W.R., JJ. (St. Pancras v. Bradford)*, 14 L. J. M. C. 119; 9 J. P. 822.

Respondents are not precluded from obtaining a fresh order of removal, by the fact that they had applied for and obtained liberty to state a case for a superior court upon the decision of the sessions upon a prior order: *Reg. v. Great Bolton*, 14 L. J. M. C. 122; 7 Q. B. 387.

Although an order name the mother only, the parish to which the removal is made must nevertheless receive the child if within the age of nurture and brought with the mother: *Reg. v. Stockton-on-Tees*, 14 L. J. M. C. 128; 7 Q. B. 520.

An attachment will lie against an overseer and also against the solicitor of the parish, for refusing to produce the rate books of the parish at petty sessions, in obedience to a crown office subpoena: *Reg. v. Carey*, 14 L. J. M. C. 191; 7 Q. B. 126.

Overseers are bound to produce the rate books before the justices at petty sessions, on an inquiry into the settlement of a pauper, on a subpoena *duces tecum*; and if they do not an attachment will be granted: *Reg. v. South Lopham*, 10 Jur. 222.

Such of the provisions of the 4 & 5 Will. 4, c. 76, s. 79, as are applicable to the case of a pauper lunatic were held to be taken as incorporated in 8 & 9 Vict. c. 126: *Reg. v. Middlesex JJ.*, 16 L. J. M. C. 109.

An order of removal purported to adjudicate on the settlement of "A. B., widow, and four of her children, namely, &c." By the examination it appeared that one of them was illegitimate: Held that the word "children" standing alone meant legitimate children; and that therefore the one that was illegitimate was misdescribed and the order as to him was bad: *Reg. v. Birmingham (Cheltenham v. Birmingham)*, 8 Q. B. 410; 15 L. J. M. C. 65.

A pauper inhabiting and receiving relief in one of several parishes incorporated under a local Act is chargeable to such parish, and may be removed to another parish not within the Act, although the relief was given out of the common fund of the several parishes: *Reg. v. St. Mary, in Bungay*, 19 L. J. M. C. 39; 12 Q. B. 32; 13 J. P. 779.

A written authority by the W. union to relieve paupers on account of another union is *prima facie* evidence of an acknowledgment that the paupers were settled there, without proof of a written order, and without further evidence of the circumstances under which the clerk was directed to write: *Reg. v. Wigan*, 14 Q. B. 287.

POOR REMOVAL—THE EXAMINATIONS.

Decisions on
sect. 81.

Where upon the examination the pauper stated that his father belonged to the appellat parish, and that he continued to belong there till his death, and that he had heard him say that he was a certificated man from the appellat parish, it was competent to the respondents to go into evidence,

POOR REMOVAL—THE EXAMINATIONS—*continued.*

that the pauper's father gained a settlement in the appellant parish by apprenticeship, and that he was a certificated man from that parish; the sessions having refused to hear such evidence, the case was sent back: *Reg. v. Kelveston*, 5 A. & E. 687; 6 L. J. M. C. 3; 1 N. & P. 138. *Decisions on sect. 81.*

Where the pauper's examination differs from his evidence at sessions as to any circumstances making a part of the matter pointed to in the grounds of appeal, it is for the sessions to decide whether the variance be material within 4 & 5 Will. 4, c. 76, s. 81. *Per* Lord Denman, C. J., the examination of the pauper is to be construed as strictly as the statement of grounds of appeal: *Reg. v. York, W.R., JJ.*, 10 A. & E. 685; 9 L. J. M. C. 57; 3 P. & D. 462.

Under 4 & 5 Will. 4, c. 76, s. 81, the sessions must reject evidence of any grounds of removal which do not appear on the face of the examination to have been proved before the removing justices by some legal evidence; provided the defect of evidence be pointed out by the notice of objections: *Reg. v. Lydeard, St. Lawrence*, 11 A. & E. 616.

Under 4 & 5 Will. 4, c. 76, s. 81, examinations show sufficient ground of removal if they state a case of relief though they alone contain an imperfect statement (and no other) of an actual settlement: *Reg. v. Camrose*, 2 Q. B. 330.

The examinations transmitted with copy of an order of removal under 4 & 5 Will. 4, c. 76, s. 81, must show proper grounds of removal, proved by legal evidence: *Reg. v. Rishworth*, 2 Q. B. 476; 11 L. J. M. C. 34.

Respondents relied on a settlement gained by pauper's husband's father by payment of parochial taxes. It appeared on the face of the examination that during the period in which such taxes were paid, the pauper's husband resided with his father as one of his family: Held that this was a sufficient statement on the face of the examination, that the pauper's husband was unemancipated when his father acquired the settlement: *Reg. v. Stapleford Fitzpaine*, 2 Q. B. 488; 11 L. J. M. C. 38.

No evidence, it was held, could be received under a ground of removal, "because the pauper acquired a settlement in the said parish of —, by hiring and serving with one —, from Lady-day to the following Lady-day, and service under the same in that parish accordingly," inasmuch as it was defective from the absence of any statement of time and residence, and could not be coupled with allegations in the examinations, there being no words of reference to connect them: *Reg. v. Stowford*, 12 L. J. M. C. 7; 2 Q. B. 526.

If the settlement be by apprenticeship it must be stated in the examination that the apprentice served in the parish: *Reg. v. York, W.R., JJ.*, 12 L. J. M. C. 37; 2 Q. B. 505.

The examination will be insufficient if it do not show a residence in the parish in which a settlement is claimed, by renting a tenant: *Reg. v. St. Margaret, Rochester*, 2 Q. B. 533; 12 L. J. M. C. 77.

An examination of a pauper stated an apprenticeship, and that the indentures "were assigned to W., of F. (the appellant parish), with whom I went and resided there between three and four years:" Held, under 4 & 5 Will. 4, c. 76, s. 81, not to be a sufficient statement of the pauper's residence in F. to let in evidence of a settlement in F. by apprenticeship: *Reg. v. Flockton*, 2 Q. B. 535; 12 L. J. M. C. 70.

Under 4 & 5 Will. 4, c. 76, s. 81, an examination to show a settlement by hiring and service, under 3 & 4 Will. & Mary, c. 11, s. 7, must state that the pauper at the time of the hiring had no child or children; and it is not enough to state that he was then single and unmarried: *Reg. v. Wymondham*, 2 Q. B. 541; 2 G. & D. 690; 12 L. J. M. C. 74.

POOR REMOVAL—THE EXAMINATIONS—*continued.*

*Decisions on
sect. 81.*

If the settlement be by hiring and service, the examination must show that the pauper was unmarried at the time of the contract of hiring: *Reg. v. St. Paul, Covent Garden*, 5 Q. B. 669.

Pauper, in her examination, stated: "I and my children are inhabitants of the parish of A., and are chargeable to the said parish of A." The relieving officer stated: "I am one of the relieving officers of the B. union, and administer the relief ordered for the paupers of the said parish of A. The said (the pauper) and her four children (naming them) are now chargeable to the said parish of A." This was not sufficient evidence of chargeability: *Reg. v. High Bicklington* 13 L. J. M. C. 74.

An examination which shows that the pauper took a house for a year at a rent exceeding 10l., and resided in it for more than a year and paid rent for the whole term of his tenancy, does not show sufficient to support a settlement by renting a tenant: *Reg. v. Leeds*, 13 L. J. M. C. 88.

The examinations must show that the house conferring the settlement had been occupied for a year, under a yearly hiring, within 1 Will. c. 18, s. 1: *Reg. v. St. Sepulchre, Southampton*, 6 Q. B. 580; 14 L. J. M. C. 8.

Where a date is material with reference to the state of the law at the time a settlement is alleged to have been gained, such date must be stated precisely; it was alleged in the examinations that the pauper was born out of wedlock in A., in or about the year 1833, nothing being said as to the settlement of his mother: Held that as the words "in or about" the year 1833 did not necessarily exclude the 14th August, 1834, the examinations were insufficient: *Reg. v. St. Paul, Covent Garden*, 14 L. J. M. C. 109; 7 Q. B. 232.

Having stated specific objections to an order of removal, the appellants cannot under a general ground of appeal object that the examinations on which it is proved were defective in other respects: *Reg. v. Birmingham, (Cheltenham v. Birmingham)* 15 L. J. M. C. 65; 8 Q. B. 410.

A statement in an examination that "in or about" the year —, the pauper was hired, &c., was insufficient, for not showing with sufficient certainty that a hiring and service was completed at the time of the passing of the 4 & 5 Will. 4, c. 76: *Reg. v. St. Anne, Westminster*, 15 L. J. M. C. 119.

POOR REMOVAL—GROUNDS OF APPEAL.

The statement of the grounds of appeal may be delivered before the notice of appeal. If delivered with an erroneous notice of appeal, it is nevertheless available if a good notice of appeal, incorporating such statement by reference, be afterwards served in proper time: *Rex v. Suffolk JJ.*, 4 A. & E. 319; 5 L. J. M. C. 3.

Semble, that service of statement of grounds of appeal, if on the attorney, will be insufficient: *Rex v. Kimbolton*, 6 A. & E. 603.

A notice of grounds of appeal, under 4 & 5 Will. 4, c. 76, s. 81, signed by the attorney of the appellant parish "as attorney for and on behalf of the churchwardens and overseers," is sufficient: *Rex v. Worcester JJ.* Will. W. & Hodg. 152.

A statement of grounds of appeal against an order of removal is sufficient if it gives all the information which the appellants have it in their power to give, provided that all pains have been taken to procure information—as a statement that the pauper rented a tenement *about* the year 1813, whereby, &c.: *Rex v. Derbyshire JJ.*, Will. W. & Hodg. 323.

If a statement of grounds of appeal be served 14 days before the sessions for which notice to try is given, and the appeal be entered and adjourned, 14 days before the sessions to which the adjournment is made, the appellants may serve another statement varying from the first, and treat such

POOR REMOVAL—GROUNDS OF APPEAL—*continued*.

new statement as the only one: *Reg. v. Derbyshire JJ.* (*Newborough v. Decisions on Swarkston*), 6 A. & E. 612; 7 L. J. M. C. 91; 3 N. & P. 591. sect. 81.

Notice of grounds of appeal was sufficiently given if served on one of the officers having the management of the poor of the removing parish; and it was also sufficient if signed by a majority of the officers of the appellant parish: *Rex v. Warwickshire JJ.* (*Solihull v. Norton Lindsey*); *Rex v. The same* (*Stoneleigh v. Brinklow*), 6 A. & E. 873; 6 L. J. M. C. 113; 2 N. & P. 153.

The statement of grounds of appeal which does not specify dates or names, is not a sufficient statement under 4 & 5 Will. 4, c. 76, s. 81. The notice of appeal and statement of grounds were sufficiently signed, if two overseers signed them, though there was also a churchwarden who did not: *Rex v. Derbyshire JJ.*; *Castleton v. Bradwell*, 6 A. & E. 885; 6 L. J. M. C. 140; 1 N. & P. 703.

Where a notice states, as the ground of appeal, that the pauper was settled in a third parish, not adding as a ground that he had no settlement in the appellant parish, the respondents are not bound to prove a settlement there: *Reg. v. Hockworthy*, 7 A. & E. 492; 7 L. J. M. C. 24; 2 N. & P. 383.

Where the sessions held the statement of grounds of appeal to be bad, and the respondents demanded to have the order confirmed, but the sessions quashed it for a defect in it, the court, on motion for a *certiorari*, held that the facts did not show want of jurisdiction in the sessions: *Reg. v. Cheshire JJ.*, 8 A. & E. 398; 8 L. J. M. C. 1.

Where after the hearing of an appeal against an order of removal, the justices are equally divided in opinion, and the appeal is adjourned to the ensuing sessions, the appellants are not entitled to serve a new statement containing additional grounds of appeal: *Reg. v. Arlecdon*, 9 L. J. M. C. 9; 11 A. & E. 87.

Appellants stated, as the ground of appeal against an order founded on a settlement by apprenticeship, that the requirements of 56 Geo. 3, c. 139, s. 5, were not complied with; and it was held that they could not under this statement dispute the settlement at sessions, on the ground that their overseers had no notice, and were not present at the binding: *Reg. v. Whitley Upper*, 11 A. & E. 90.

It is a good ground of appeal that the examination upon which the order was made, though it sets forth facts which show a settlement, does not disclose any legal evidence (as hearsay evidence) of such facts: *Reg. v. Ecclesall Bierlow*, 11 A. & E. 607; 10 L. J. M. C. 90; 1 G. & D. 160.

The sessions must reject evidence of any grounds of removal which do not appear on the face of the examination to have been proved *before* the removing justices by some legal evidence, provided the defect of evidence be pointed out by the notice of objections. An examination stated an apprenticeship and a service in the appellant parish with a person other than the master, but did not state the master's consent; it was therefore bad on the face of it, so far as regards a settlement by apprenticeship; *semble*, *per* Patteson, J., where the settlement relied on is a derivative one from the pauper's father, whose alleged settlement is by apprenticeship, the examination should give the date of the apprenticeship: *Reg. v. Lydeard, St. Lawrence*, 11 A. & E. 616; 10 L. J. M. C. 147; 1 G. & D. 19.

Where the sessions have decided that grounds of appeal are insufficiently stated and consequently confirmed the order without going into the case, this is a decision on a preliminary point and not on the merits; and the court will compel them to hear by *mandamus* if their decision was wrong: *Reg. v. Carnarvonshire JJ.*, 11 L. J. M. C. 3; 2 Q. B. 325.

Under 4 & 5 Will. 4, c. 76, s. 81, grounds of appeal will be bad if they

POOR REMOVAL—GROUNDS OF APPEAL—*continued*.

*Decisions on
sect. 81.*

do not show that the hiring and service were for a year, and will not be aided by the description of the hiring and service in the examination if it do not appear that both were the same: *Reg. v. North Bovey*, 2 Q. B. 500; 11 L. J. M. C. 71.

Grounds of appeal under 4 & 5 Will. 4, c. 76, s. 81, will be insufficient if they do not show residence in the parish: *Reg. v. Old Stratford*, 2 Q. B. 513; 11 L. J. M. C. 115; 2 G. & D. 82; *Reg. v. York, W.R., JJ.*, 2 Q. B. 505; 11 L. J. M. C. 80.

Grounds of appeal cannot be connected with the examination so as to supply allegations as to time and residence, omitted in the grounds of appeal: *Reg. v. Stowford*, 2 Q. B. 526; 12 L. J. M. C. 7.

A ground of appeal which alleges the occupation of a house and land, does not necessarily impart residence, and is insufficient: *Drighlington v. Pudsey*, 1 G. & D. 706.

Grounds of appeal stating a settlement by hiring and service, but not that, when hired, the person was unmarried and without child or children, held insufficient, though, coupling the grounds of appeal with the examination, it appeared that the pauper, when hired, was only 11 years old: *Reg. v. Recorder of Leeds*, 2 Q. B. 547.

It is not an objection to a notice of appeal against an order of removal that such notice does not mention the names of the justices who made the order: *Reg. v. West Houghton*, 13 L. J. M. C. 41; 5 Q. B. 300; 7 J. P. 738.

The court of quarter sessions should not in a special case ask questions of the court with a view to a rehearing of the case: *Ib.*

A notice and statement of grounds of appeal, purporting to be signed by one churchwarden and two overseers, one of those who signed as overseers being the same person who had signed as churchwarden: Held, that the respondents could not set up as an objection to the hearing of the appeal the irregularity in the appointment of the officers of the appellant parish, that parish being bound by the notice: *Reg. v. Leominster*, 13 L. J. M. C. 54; 5 Q. B. 640; 8 J. P. 613.

A statement of grounds of appeal alleging a settlement acquired by paying parochial rates for a tenement consisting of houses, since 6 Geo. 4, c. 57, must aver that the tenement was "separate and distinct:" *Reg. v. Ripon*, 14 L. J. M. C. 102; 7 Q. B. 225.

Grounds of appeal against an order of removal stated that a settlement acquired by the pauper's grandfather, and that after the acquisition of that settlement the father was an unemancipated member of the grandfather's family, and that neither the pauper nor his father had gained any settlement in their own right: Held sufficient: *Reg. v. Rothwell*, 7 Q. B. 574; 9 J. P. 714.

The signature of a notice of appeal by three guardians is sufficient within 4 & 5 Will. 4, c. 76, s. 81: *Reg. v. St. George's, Hanover Square*, 18 L. J. M. C. 160.

A ground of appeal which stated that the pauper's late husband, in or about the year —, was born in P., in the county of —, was sufficient: *Reg. v. Ealing*, 18 L. J. M. C. 185; 12 Q. B. 178, n.; 13 J. P. 297.

A ground of appeal that the pauper "was not in the year 1834 legally bound apprentice to, &c., as stated in the said examinations, &c.," was a sufficient traverse of the settlement by apprenticeship: *Reg. v. Aston*, 19 L. J. M. C. 17; 12 Q. B. 26; 14 J. P. 408.

Under the general ground of appeal "that the statements contained in the said examinations are not true" the appellants are entitled to call upon

POOR REMOVAL—GROUNDS OF APPEAL—*continued.*

the respondents to prove their settlement relied upon in the examinations. *Decisions on*
 It is for the sessions to consider any question of inconvenience arising from *sect. 81.*
 such general ground of appeal, and, if it amount to a frivolous and vexatious statement, to award costs under 4 & 5 Will. 4, c. 76, s. 83, and 11 & 12 Vict. c. 31, s. 5: *Reg. v. St. Pancras*, 19 L. J. M. C. 23.

Service of fresh grounds of appeal against an order of removal after an adjournment, on the ground of the absence of a material witness: Held, on the authority of *Reg. v. Derbyshire JJ.*, 6 A. & E. 912, n. (b); 7 L. J. (N. S.) M. C. 91, that under 4 & 5 Will. 4, c. 76, s. 81, the appellant had power to serve fresh grounds of appeal, and that the quarter sessions were right in quashing the order: *Reg. v. Arlecdon*, 11 A. & E. 87; 9 L. J. (N. S.) M. C. 9, distinguished: *Reg. v. Kendall*, 32 L. T. 274; 23 J. P. 68; 28 L. J. (N. S.) M. C. 110; 5 Jur. (N. S.) 545.

By 4 & 5 Will. 4, c. 76, s. 81, an appellant is bound to give 14 clear days' notice of grounds of appeal; and by the 11 & 12 Vict. c. 31, s. 9, an appellant has 14 days after receiving a copy of the depositions within which to give his notice of appeal. If, at the expiration of such last-mentioned 14 days, there is time, by the practice of the sessions, to give full notice of appeal, but not time to give 14 days' notice of grounds of appeal, the appellant ought to apply to enter and respite his appeal, and the sessions are bound to receive and respite it accordingly: *Colemore*, app., *Funtingdon*, resp., 6 L. T. (N. S.) 422; S. C. *Reg. v. Sussex JJ.*, 2 B. & S. 664; 6 Jur. (N. S.) 1150; 8 Jur. (N. S.) 883; 24 J. P. 759; 26 J. P. 403; 31 L. J. M. C. 193; (but see *Reg. v. Sussex JJ.*, 34 L. J. M. C. 69).

The delivery of grounds of appeal against an order of removal with the notice of appeal, is as valid for all purposes as a delivery of them 14 days at least before the sessions begin. The appellants have not, by 11 & 12 Vict. c. 31, s. 9, 21 days plus the 14 days after the delivery of the depositions, so as to entitle them as of right to have the appeal entered and respited, if after those days have expired there does not remain enough time before the sessions to deliver an effective notice of appeal according to the practice of the sessions; and the sessions may, in their discretion, refuse to respite if they deem that the appellants have been guilty of unreasonable delay in giving their notice of appeal, though the time for giving notice of appeal must be calculated with reference to the first day of sessions, yet when, for practical convenience, the county is divided into distinct divisions, and a distinct court is held in each division by adjournment from one to the other, and the rules of practice made by the court in each division assume that the day when the court for that division begins its sittings is the first day of the sessions, it is sufficient if the grounds of appeal are delivered 14 clear days before the first day of the sitting of the court, for the divisions in which the appeal is, according to the practice, to be tried; overruling *Rex v. Suffolk JJ.*, 16 L. J. M. C. 36 (N. S.): *Reg. v. Sussex JJ.*, 34 L. J. M. C. 69; 11 Jur. (N. S.) 300; 11 L. T. (N. S.) 40; 4 B. & S. 966.

POOR REMOVAL—EVIDENCE.

If the letting of the tenement be by a written instrument it can be proved only by the production of that instrument: *Rex v. Rawden*, 8 B. & C. 708.

Where, on the trial of an appeal, the respondents proved by parol the rating of two fields in the appellant parish at 15*l.* a year, and an occupation and payment of the rent for a whole year, the appellants gave evidence that the contract for taking the fields was reduced into writing; it was held that it lay open to the latter to produce the written contract: *Rex v. Padstow*, 4 B. & Ad. 208.

Parish losing appeal to pay such costs as court may direct.

LXXXII. Upon every such appeal the court before whom the same shall be brought shall and may, if they think fit, order and direct the *parish* (*f*) against which the same shall be decided to pay to the other such costs and charges as may to such court appear just and reasonable, and shall certify the amount thereof; and in case the *overseers* (*g*) of the poor of the *parish* (*f*) liable to pay the same shall, upon demand, and upon the production of such certificate, refuse or neglect to pay the same, the amount

(*f*) See 28 & 29 Vict. c. 79, s. 3.

(*g*) See 28 & 29 Vict. c. 79, s. 1.

POOR REMOVAL—EVIDENCE—continued.

Decisions on
sect. 81.

When the respondents on an appeal produce a deed of feoffment for the purpose of showing a settlement by estate in the appellant parish, but the lands are described in the deed as situated elsewhere, the respondents may produce parol evidence to show that the lands were really within the appellant parish: *Rex v. Wickham*, 2 A. & E. 517; 4 L. J. M. C. 45.

By 4 & 5 Will. 4, c. 76, s. 81, respondents are precluded from going into evidence not stated in the examinations: *Rex v. Misterton*, 6 A. & E. 878; 6 L. J. M. C. 107; 2 N. & P. 109.

Per Lord Denman, C. J.—“We have not said that the admission of *some* improper evidence will be a ground for quashing an order. I should be slow to hold that:” *Reg. v. Telbury*, 11 A. & E. 615, n.; 1 G. & D. 166, n.

Entries made by the employer in a private book as to the terms of hiring, were held not admissible in evidence to prove a settlement by hiring and service: *Reg. v. Worth*, 4 Q. B. 132; 12 L. J. M. C. 44; 7 J. P. 287.

The sessions, in stating a case for the opinion of the court, ought not to direct that in any particular event it shall be sent back to them for final determination: *Ib.*

Respondents are bound to give evidence of the birth of the pauper's late husband in the appellant parish, though there be no ground of appeal traversing the fact of his being born there, or alleging that he was born elsewhere: *Reg. v. St. Giles, Colchester*, 17 L. J. M. C. 148.

On the trial of an appeal the sessions decided that there was not sufficient proof of search for a written agreement by P. to let a tenement, to make secondary evidence of its contents admissible, and rejected the evidence, subject to a case by which it appeared that the document was traced to the custody of P., and that a witness deposed that he asked P. if there was such an agreement; P. answered, “I cannot say for a certainty;” and that P. then sent his clerk and witness to P.'s office to search, which they did; and the document was not found. P. was not called as a witness: Held, first, that the decision on a point of this kind might be reviewed; but that the onus was on the party objecting to the decision; secondly, that it was not necessary to call P. if there was proof of the search having been made in the proper place of deposit; but that it did not appear that the court below was wrong in deciding that it was not proved that the office was the proper place of deposit. *Reg. v. Saffron Hill*, 1 E. & B. 93; 22 L. J. M. C. 22; 16 Jur. 1139; 20 L. T. 92.

Where, upon appeal against an order of removal, the appellants set up a subsequent settlement by renting a tenement in a third parish, they are not entitled to give secondary evidence of the rate books of that parish, because the parish officers, who have been subpoenaed to produce them, refused to do so: *Reg. v. Llanfaethly*, 22 L. T. 117; 17 Jur. 1123; 23 L. J. M. C. 33.

thereof may be recovered from such *overseer* (a) in the same manner as any penalties or forfeitures are by this Act recoverable.

LXXXIII. If either of the parties shall have included in the order or statement sent as hereinbefore directed any grounds of removal or of appeal which shall in the opinion of the justices determining the appeal be frivolous and vexatious, such party shall be liable, at the discretion of the said justices, to pay the whole or any part of the costs incurred by the other party in disputing any such grounds, such costs to be recovered in the manner hereinbefore directed as to the other costs incurred by reason of such appeal (b).

Party making
frivolous or
vexatious
statement to
pay costs.

LXXXIV. The *parish* (c) to which any poor person whose settlement shall be in question at the time of granting relief

Costs of relief
to be paid by

(a) See 28 & 29 Vict. c. 79, s. 3. Will. 3, c. 30, s. 3; 9 Geo. 1, c. 7,

(b) See 28 & 29 Vict. c. 79, s. 1. ss. 8, 9; 5 Geo. 2, c. 19; 11 & 12

(c) See 14 Car. 2, c. 12, s. 1; 3 Vict. c. 31, s. 5; and 12 & 13 Vict. W. & M. c. 11, ss. 9, 10; 8 & 9 c. 45, s. 6.

POOR REMOVAL—COSTS OF APPEAL.

A resolution of quarter sessions that whenever an appeal against an order of removal shall be entered and respited, notice thereof shall within one month after such entry and respite be given to the officers of the removing parish, is void: *Rex v. Norfolk JJ.*, 5 B. & Ad. 990.

Decisions on
sect. 82.

Where the recorder of a borough confirms an order of removal with costs under 4 & 5 Will. 4, c. 76, s. 82, but without specifying the amount, taxation of such costs after the end of the sessions is irregular, and an order for payment could not be enforced: *Reg. v. Long*, 1 Q. B. 740; 10 L. J. M. C. 124; 1 G. & D. 367.

Where it appeared that the sessions, on an application by the successful party for the costs of an appeal, considered themselves bound by a former order of sessions that 40s. costs only should be allowed on appeals, and acted thereon and awarded only 40s. costs, it was held that such general rule was unreasonable, and that the sessions were bound to consider the question of costs irrespective of the former order of sessions, and to award to the successful party a fair and reasonable sum for the costs incurred in supporting the appeal: *Reg. v. Glamorganshire JJ.*, 4 N. S. C. 110.

POOR REMOVAL—COSTS OF VEXATIOUS APPEAL.

It is for the sessions to consider any question of inconvenience arising from a general ground of appeal, and if it amount to a frivolous and vexatious statement to award costs under 4 & 5 Will. 4, c. 76, s. 83, and 11 & 12 Vict. c. 31, s. 5: *Reg. v. St. Pancras*, 19 L. J. M. C. 23.

Decisions on
sect. 83.

Where appellants entered and respited an appeal, but did not deliver grounds of appeal, and afterwards gave notice of abandoning their appeal, but did not satisfy the respondents as to costs, the respondents went to the next quarter sessions and moved (the appellants not being present) that the order might be confirmed. The sessions (after stat. 11 & 12 Vict. c. 31,) confirmed the order of removal, and awarded costs to be paid by the appellants to the respondents: and it was held, on *certiorari*, and motion to quash, that although the confirmation was an excess of authority, the order of sessions was valid as to the award of costs: *Reg. v. Over*, 14 Q. B. 425; 19 L. J. M. C. 57.

parish to
which poor
persons belong.

Relief under
suspended
order not to
be recoverable
unless notice
sent of such
order.

shall be admitted or finally adjudged to belong shall be chargeable with and liable to pay the cost and expence of the relief and maintenance of such poor person, and such cost and expence may be recovered against such *parish* (a) in the same manner as any penalties or forfeitures are by this Act recoverable : Provided always, that such *parish* (a), if not the *parish* (a) granting such relief, shall pay to the *parish* (a) by which such relief shall be granted the cost and expence of such relief and maintenance from such time only as notice of such poor person having become chargeable shall have been sent by such relieving parish to the *parish* (a) to which such poor person shall be so admitted or finally adjudged to belong : Provided always, that no charges or expences of relief or maintenance shall be recoverable under a suspended order of removal unless notice of such order of removal, with a copy of the same, and of the examination upon which such order was made, shall have been given within ten days of such order being made to the *overseers* (b) of the poor of the parish to whom such order is directed (c).

- (a) See 28 & 29 Vict. c. 79, s. 1. 18 & 19 Vict. c. 105, ss. 8, 10; and
(b) See 28 & 29 Vict. c. 79, s. 3. 30 & 31 Vict. c. 106, s. 26.
(c) See 11 & 12 Vict. c. 31, s. 10;

POOR REMOVAL—COSTS OF MAINTENANCE.

*Decisions on
sect. 84.*

Where an order of removal was suspended and not appealed against, and before its execution the pauper became irremovable under 9 & 10 Vict. c. 66, in consequence of which no costs occasioned by the suspension could be given under 35 Geo. 3, c. 101 : it was held that costs could be given under 4 & 5 Will. 4, c. 76, s. 84 : *Reg. v. Chedgrave*, 12 Q. B. 206; 20 L. J. M. C. 23.

An order for the removal of a woman having been made, notice of chargeability, &c., served on the parish of settlement, and no notice of appeal given, the pauper, being pregnant (though not unable to travel at the making of the order), was not removed until after her delivery, about six months from the service of the notice of chargeability, &c. : Held, the removing parish could recover from the parish of settlement, under 4 & 5 Will. 4, c. 76, s. 84, only the costs of maintenance for the 21 days next after service of the notice of chargeability. Section 35 of 11 & 12 Vict. c. 43, which enacts that nothing in the Act shall be construed to extend to any order of removal, does not exempt from the operation of the Act an order (under 4 & 5 Will. 4, c. 76, ss. 84 & 99), upon the parish of settlement for the payment of the costs of maintenance of a pauper incurred between service of the order of removal, &c., and actual removal; and the information for the non-payment must therefore be laid within six months, under the general limitation of section 11 : *Collumpton v. Brighton*, 3 L. T. (N. s.) 318; *S. C. Hill v. Thorncroft*, 30 L. J. M. C. 52; 7 Jur. (N. s.) 163.

On the 12th March, 1862, an order was made for the removal of a pauper who had resided in the union for three years next before the application for the order, against which order there was no appeal, and it was duly executed. The removing parish had incurred expence in maintaining the pauper between the time of sending their notice of chargeability and the time of removal; and it was held that the removing parish could not recover such costs of maintenance in a proceeding under 4 & 5 Will. 4,

LXXXV. It shall be lawful for the said commissioners and they are hereby empowered, from time to time as they may think fit, to require from all persons in whom any freehold, copyhold, or leasehold estate, or any other property or funds belonging to any parish, and held in trust for or applicable to the relief of the poor, or which may be applied in diminution of the poor rate of such parish shall be vested, or who shall be in the receipt of the rents, profits, or income of any such estate, property, or funds, a true and detailed account in writing of the place where such estate may be situate, or in what mode or on what security such other property or funds may be invested, with such details of the rents, profits, and income thereof, and of the appropriation of the same, and of all such other particulars relating thereto, as the said commissioners may direct and require; and such statement or a true copy thereof shall, under the regulations of the said commissioners, be open for the inspection of the owners of property and ratepayers in such parish: Provided always, that nothing hereinbefore contained shall apply to any funds raised from time to time by the voluntary contributions of the inhabitants of any parish (d).

Power to call for and publish accounts of trust and charity estates.

LXXXVI. No advertisement inserted by or under the direction of the said commissioners in the "London Gazette," or any newspaper, for the purpose of carrying into effect any provisions of this Act (e), nor any mortgage, bond, instrument, or any assignment thereof, given by way of security, in pursuance of the rules, orders, or regulations of the said commissioners, and conformable thereto, nor any contract or agreement, or appointment of any officer, made or entered into in pursuance of such rules, orders, or regulations, and conformable thereto, nor any other instrument made in pursuance of this Act, nor the appointment of any paid officer engaged in the administration of the laws for the relief of the poor, or in the management or collection of the poor rate, shall be charged or chargeable with any stamp duty whatever (f).

Advertisements, &c. not liable to stamp duty.

- * * * * *
- (d) See 1 & 2 Will. 4, c. 60, s. 39.
 (e) Advertisement duty repealed by 16 & 17 Vict. c. 63.
 (f) See 33 & 34 Vict. c. 97, s. 3.

POOR REMOVAL—COSTS OF MAINTENANCE—continued.

c. 76, s. 84, the removal after the 25th of March, 1862, being illegal, although the order of removal, being before the statute, was valid, according to *Reg. v. St. Mary's, Whitechapel*, 17 L. J. (N.S.) M. C. 172; *Salford v. Manchester*, 32 L. J. (N.S.) M. C. 107; 7 L. T. (N.S.) 823; 9 Jur. (N.S.) 821; 27 J. P. 118; 3 B. & S. 959. *Decisions on sect. 84.*

APPLICATION OF CHARITY FUNDS.

A charity was founded "for the relief of the poor of S." The court held that the charity funds ought to be exclusively applied to the relief of persons not receiving parochial relief: *Attorney General v. Wilkinson*, 1 Beav. 370. *Decision on sect. 85.*

Letters to and from board of commissioners to be free of postage, if sent conformable hereto.

LXXXVIII. The said commissioners shall and may receive and send by the general post, from and to places within the United Kingdom, all letters and packets relating solely and exclusively to the execution of this Act, free from the duty of postage, provided that such letters and packets as shall be sent to the said commissioners be directed to the "Poor Law Commissioners" at their office in London, and that all such letters and packets as shall be sent by the said commissioners shall be in covers, with the words "Office of Poor Law Commissioners, pursuant to Act of parliament passed in the fifth year of the reign of His Majesty King William the Fourth," printed on the same, and be signed on the outside thereof, under such words, with the name of such person as the said commissioners, with the consent of the lords commissioners of the treasury, or any three or more of them, shall authorize and appoint, in his own handwriting, (such name to be from time to time transmitted to the secretaries of the General Post Office in London and Dublin,) and be sealed with the seal of the said commissioners, and under such other regulations and restrictions as the said lords commissioners, or any three or more of them, shall think proper and direct; and the person so to be authorized is hereby strictly forbidden so to subscribe or seal any letter or packet whatever, except such only concerning which he shall receive the special direction of his superior officer, or which he shall himself know to relate solely and exclusively to the execution of this Act; and if the person so to be authorized, or any other person, shall send, or cause or permit to be sent, under any such cover, any letter, paper, or writing, or any enclosure, other than what shall relate to the execution of this Act, every person so offending shall forfeit and pay the sum of one hundred pounds, and be dismissed from his office; one moiety of the said penalty to the use of His Majesty, his heirs and successors, and the other moiety to the use of the person who shall inform or sue for the same, to be sued for and recovered in any of His Majesty's Courts of Record at Westminster for offences committed in England, and in any of His Majesty's Courts of Record in Dublin for offences committed in Ireland, and before the Sheriff or Stewartry Court of the shire or stewartry within which the party offending shall reside, or the offence shall be committed, for offences committed in Scotland; and if any letter, paper, or writing, or other enclosure, shall be sent under cover to the said commissioners, the same not relating solely and exclusively to the execution of this Act, they are hereby strictly required and enjoined to transmit the same forthwith to the secretary of the Post Office in London, with the covers under which the same shall be sent, in order that the contents thereof may be charged with the full rates of postage.

Letters sent under cover not relating solely to the business of the Act to be transmitted to Post Office to be charged.

Payments contrary to this Act to be disallowed.

LXXXIX. All payments, charges, and allowances, made by any overseer or guardian, and charged upon the rates for the relief of the poor, contrary to the provisions of this Act, or at variance with any rule, order or regulation

of the said commissioners, made under the authority of this Act, shall be and the same are hereby declared to be illegal, any law, custom, or usage, to the contrary notwithstanding (a), and every justice of the peace (b) is hereby required to disallow as illegal and unfounded all payments, charges, or allowances, contrary to the provisions of this Act, or to any such rule, order, or regulation of the said commissioners, which shall be contained in any account of any overseer of the poor or guardian which shall be presented for the purpose of being passed or allowed: Provided always that no allowance by any justice shall exonerate or discharge such overseer or guardian from any penalty or legal proceeding to which he may have rendered himself liable by having acted contrary to the rules, orders, and regulations of the said commissioners, or to the provisions of this Act.

XC. The leaving of any summons authorized to be issued by any commissioner, assistant commissioner, or justice of the peace, under this Act, at the usual or last known place of abode of the party to whom such summons shall be directed, shall in every case be deemed good and sufficient service of such summons. Service of summons.

XCI. So much of an Act made and passed in the sixth year of the reign of His late Majesty King George the Fourth, intituled "An Act to repeal the Duties payable in respect of the Spirits distilled in England, and of Licences for distilling, rectifying, or compounding such Spirits, and for the Sale of Spirits, and to impose other Duties in lieu thereof, and to provide other Regulations for the Collection of the said Duties, and for the Sale of Spirits, and for the warehousing of such Spirits, without Payment of Duty for Exportation," as provides that if any master or officer of any workhouse shall sell, use, lend, or give away, or knowingly permit or suffer any spirits to be sold, used, lent, or given away in any such workhouse, or brought into the same, other than and except such spirits as shall be prescribed or given by the prescription and direction of a physician, surgeon, or apothecary, and to be supplied in pursuance of such prescriptions from the shop of some apothecary, every such master or such other officer shall for every such offence forfeit one hundred pounds, and for the second like offence, lose his office; and so much of the said last-mentioned Act as provides that no person shall carry or bring, or attempt to endeavour to carry or bring, any spirits, except to be used in the way of medicine, into any workhouse, under the pain of being imprisoned for every such offence for any time not exceeding three months; and also so much of the said last-mentioned Act as provides that every master and chief officer of every workhouse shall procure one or more copy or copies of the clauses in the said Act mentioned, to be printed or fairly written and hung up in one of the most public places Repeal of so much of 5 Geo. IV. c. 80, as relates to prohibition of spirituous liquors in workhouses.

(a) See 7 & 8 Vict. c. 101, ss. 32, 36. (b) See 7 & 8 Vict. c. 101, s. 37.

in the workhouse, and renew the same from time to time, so that it may be always kept fair and legible, on pain of forfeiting the sum of ten pounds for every wilful default; or as enables any justice of the peace to demand a sight of such copy so hung up in some public place, to convict such master or officer of such default; shall be and is hereby repealed.

Penalty on persons introducing spirituous liquors into workhouses.

XCII. If any person shall carry, bring, or introduce, or attempt or endeavour to carry, bring or introduce, into any workhouse now or hereafter to be established, any spirituous or fermented liquor without the order in writing of the master of such workhouse, it shall be lawful for the master of such workhouse, or any officer of the same acting under his direction, to apprehend or cause to be apprehended such offender, and to carry him or her before a justice of the peace, who is hereby empowered to hear and determine such offence in a summary way; and upon conviction thereof the party so offending shall forfeit and pay any sum of money not exceeding ten pounds for every such offence, as such justice may direct; and in default of payment of the penalty hereby imposed, such justice may and is hereby required to commit such offender to the common gaol or house of correction for the district in which such workhouse shall be situate for any space of time not exceeding two calendar months, unless such penalty shall be sooner paid (a).

Penalty on masters of workhouses allowing use of spirituous liquors, or ill-treating poor persons, or misconducting himself.

XCIII. If any master of a workhouse shall order any spirituous or fermented liquor to be carried, brought, or introduced into any workhouse, except for the domestic use of himself or of any officer of the said workhouse, or their respective families, or except by and under the written authority of the surgeon of such workhouse, or of any justice visiting the same, or of the guardians of such workhouse, or in conformity with any rules, orders, or regulations of the said commissioners (a); or if any such master or any other officer of any workhouse shall carry, bring, or introduce into such workhouse, or sell, use, lend, or give away therein, or knowingly permit or suffer to be carried, brought, or introduced, or sold, used, lent, or given away therein, any spirituous or fermented liquor, contrary to the rules, orders, and regulations of the said commissioners; or shall punish with any corporal punishment any adult person in such workhouse, or confine any such person for any offence or misbehaviour for any longer space of time than twenty-four hours, or such further space of time as may be necessary in order to have such person carried before a justice of the peace (b); or shall in any way abuse or ill-treat, or be guilty of

(a) See 24 Geo. 2, c. 40, ss. 13, 14, 15. (b) See 54 Geo. 3, c. 170, s. 7.

REQUEST TO SUPPLY FERMENTED LIQUORS TO WORKHOUSE.

Decision on sect. 91.

An order was made in this case that the dividends of the fund should be paid to the vicar of the parish, to be applied by him pursuant to the provisions of the will, so far as the same might be consistent with the Poor Law Amendment Act: *Attorney General v. Vint*, 19 L. J. (N. S.) 150.

any other misbehaviour, or otherwise misconduct himself towards or with respect to any poor person in such workhouse; every such master or officer of a workhouse so offending shall for every such offence, upon the complaint of the overseers or guardians of the parish or union to which such workhouse shall belong, or of any such poor person, and upon conviction of such offence before any two justices, forfeit and pay such sum of money, not being more than twenty pounds, as such justices may direct; and in default of payment of the penalty hereby imposed, such justices may and are hereby required to commit such offender to the common gaol or house of correction for the district in which such workhouse shall be situate for any space of time not exceeding six calendar months, unless such penalty shall be sooner paid: Provided always, that if at the time when any such master or officer of a workhouse shall be so convicted of any such offence, there shall be due to him any sum of money or salary in respect of his employment as such master or officer of such workhouse, or upon any balance of account from the overseers or guardians of the parish or union to which such workhouse shall belong, it shall be lawful for such justices, upon the application of such overseers or guardians, by order in writing under their hand, to direct that such sum of money, salary, or balance, so far as the same shall extend, or a sufficient part thereof, shall be retained and applied for the use of such parish or union by such overseers or guardians, in payment or part payment of any such penalty; and such order shall be a good and valid discharge to such overseers or guardians, for so much money as may by such order be directed to be so retained and applied against the claim or demand of the master or other officer of such workhouse in respect of any such sum of money, salary, or balance.

Power for justices to order salaries, &c. to be stopped and applied towards payment of penalties.

XCIV. The master of every workhouse shall cause one or more copy or copies of the two preceding clauses to be printed or fairly written, and hung up in one of the most public places of such workhouse, and renew the same from time to time, so that it be always kept fair and legible, on pain of forfeiting the sum of ten pounds for every wilful default.

Masters to hang up copies of two preceding clauses in workhouse.

XCV. In case any overseer, assistant overseer, master of a workhouse, or other officer of any parish or union, shall wilfully disobey the legal and reasonable orders of such justices and guardians (c) in carrying the rules, orders, and regulations of the said commissioners or assistant commissioners, or the provisions of this Act, into execution, every such offender shall, upon conviction before any two justices, forfeit and pay for every such offence any sum not exceeding five pounds.

Penalties on overseers and other officers disobeying guardians.

XCVI. Provided always, that no overseer shall from henceforth be liable to any prosecution or penalty for not carrying into execution any illegal order of such justices or guardians; any law or statute to the contrary notwithstanding.

No overseer to be prosecuted for not executing illegal orders.

(c) See 17 Geo. 2, c. 38, s. 14; c. 103, s. 7; and 14 & 15 Vict. 33 Geo. 3, c. 55, s. 1; 12 & 13 Vict. c. 105, s. 9.

Penalty on overseers, &c. purloining, &c. goods, &c. 20*l.* and treble the value of goods purloined.

XCVII. If any overseer, assistant overseer, master of a work-house, or other paid officer, or any other person employed by or under the authority of the said guardians, shall purloin, embezzle, or wilfully waste or misapply any of the monies, goods, or chattels belonging to any parish (a) or union, every such offender shall, besides and in addition to such pains and penalties as such person so offending shall, independently of this Act, be liable to, upon conviction before any two justices, forfeit and pay for every such offence any sum not exceeding twenty pounds, and also treble the amount or value of such money, goods, or chattels so purloined, embezzled, wasted, or misapplied; and every person so convicted shall be for ever thereafter incapable of serving any office under the provisions of this or any other Act in relation to the relief of the poor.

Penalty on persons wilfully disobeying rules, orders and regulations.

XCVIII. In case any person shall wilfully neglect or disobey any of the rules, orders, or regulations of the said commissioners or assistant commissioners, or be guilty of any contempt of the said commissioners sitting as a board, such person shall, upon conviction before any two justices, forfeit and pay for the first offence any sum not exceeding five pounds, for the second offence any sum not exceeding twenty pounds nor less than five pounds, and in the event of such person being convicted a third time, such third and every subsequent offence shall be deemed a misdemeanor, and such offender shall be liable to be indicted for the same offence, and shall on conviction pay such fine, not being less than twenty pounds, and suffer such imprisonment, with or without hard labour, as may be awarded against him by the court by or before which he shall be tried and convicted (b).

Forfeitures, costs, and charges may be levied by distress and sale.

XCIX. All penalties and forfeitures by this Act inflicted or authorized to be imposed for any offence against the same shall, upon proof and conviction of the offences respectively before any two justices, either by the confession of the party offending, or by the oath of any credible witness or witnesses (which oath such justices are in every case hereby fully authorized to administer), or upon order made as aforesaid, be levied, together with the costs attending the information, summons, and conviction.

(a) See 12 & 13 Vict. c. 103, s. 15.

(b) See 12 & 13 Vict. c. 13, s. 1; and 12 & 13 Vict. c. 103, s. 10.

INFORMATION FOR MISAPPLICATION OF PARISH MONEY.

Decision on sect. 97.

An information against a parish officer for misapplying the money, &c., of the parish under 4 & 5 Will. 4, c. 76, s. 97, must state that he misapplied them "wilfully." *Carpenter v. Mason*, 12 A. & E. 629; 10 L. J. M. C. 1; 4 P. & D. 439.

OVERSEERS REFUSING TO ACCOUNT TO AUDITOR.

Decision on sect. 98.

Overseers could not be indicted under any section of 4 & 5 Will. 4, c. 76, for refusing to account to the auditor: *Reg. v. Crossley*, 8 L. J. M. C. 81.

tion, by distress and sale of the goods and chattels of the offender or person liable or ordered to pay the same respectively, by warrant under the hands of the justices before whom the party may have been convicted, or on proof of such conviction, by a warrant under the hands of any two justices acting for the county, riding, or division (which warrant such justices are hereby empowered and required to grant); and the overplus (if any), after such penalties and forfeitures, and the charges of such distress and sale, are deducted, shall be returned, upon demand, unto the owner or owners of such goods and chattels; and in case such fines, penalties and forfeitures shall not be forthwith paid upon conviction, then it shall be lawful for such justices as aforesaid to order the offender or offenders so convicted to be detained and kept in safe custody until return can be conveniently made to such warrant of distress, unless the offender or offenders shall give sufficient security, to the satisfaction of such justices as aforesaid, for his or their appearance before such justices on such day or days as shall be appointed for the return of such warrant of distress, such day or days not being more than seven days from the time of taking any such security, and which security the said justices as aforesaid are hereby empowered to take by way of recognizance or otherwise; but if upon the return of such warrant it shall appear that no sufficient distress can be had thereupon, then it shall be lawful for any such justices as aforesaid, as the case may be, and they are hereby authorized and required, by warrant or warrants under their hands, to cause such offender or offenders to be committed to the common gaol or house of correction of the county, riding, or place where the offender shall be or reside, there to remain, without bail or mainprize, for any term not exceeding three calendar months, unless such penalties and forfeitures, and all reasonable charges attending the same shall be sooner paid and satisfied; and the penalties and forfeitures, when so levied, shall be paid to or for the use of the parish or union where such offence shall have been committed, to be applied in aid of the poor rate of such parish or union (c).

In what manner to be applied.

C. No owner of property, ratepayer, or inhabitant of any parish or union shall be deemed an incompetent witness in any proceeding for the recovery of any penalty or forfeiture inflicted or imposed for any offence against this Act, notwithstanding such penalty or forfeiture when recovered, shall be applicable in aid of the poor rate of such parish or union (d).

Owners, ratepayers, &c. may be competent witnesses.

CI. In all cases in which any penalty or forfeiture is recoverable before the justices of the peace under this Act it shall and may be lawful for any commissioner or assistant commissioner, or any justice, to whom complaint in writing shall be made of any such offence, to summon the party complained against to

Justices may proceed by summons for the recovery of penalties.

(c) See 7 & 8 Vict. c. 101, ss. 32, 43, 49; 11 & 12 Vict. c. 31, ss. 5, 8; 12 & 13 Vict. c. 103, s. 10.

(d) See 3 & 4 Vict. c. 26.

appear before any two justices, and on such summons the said two justices may hear and determine the matter of such complaint, and on proof of the offence convict the offender, and adjudge him to pay the penalty or forfeiture incurred, and proceed to recover the same (a).

Satisfaction recoverable for special damage, but distress not unlawful for want of form in the proceedings.

Plaintiff not to recover for irregularity if tender of amends be made.

Appeal to the quarter sessions against order of justices within four calendar months after cause of complaint, &c.

Fourteen days' notice in writing to be

CII. Where any distress shall be made for any sum of money to be levied by virtue of this Act the distress itself shall not be deemed unlawful, nor the party making the same be deemed a trespasser, on account of any default or want of form in any proceedings relating thereto, nor shall the party distraining be deemed a trespasser *ab initio* on account of any irregularity which shall afterwards happen in making the distress, but the person aggrieved by such irregularity may recover full satisfaction for the special damage in an action on the case: Provided always, that no plaintiff shall recover in any action for any irregularity, trespass, or wrongful proceedings, if tender of sufficient amends shall be made by or on behalf of the party who shall have committed or caused to be committed any such irregularity, trespass, or wrongful proceedings, before such action shall have been brought; and in case no such tender shall have been made it shall and may be lawful for the defendant in any such action, by leave of the court where such action shall depend, at any time before issue joined, to pay into court such sum of money as he shall see fit, whereupon such proceedings, or orders and judgment, shall be had, made, and given in and by such court as in other actions where the defendant is allowed to pay money into court.

CIII. Provided also, that if any person or persons shall find himself, herself, or themselves aggrieved by any order or conviction of any justice or justices where such person or persons shall be convicted in any penalty or penalties exceeding five pounds [or if any person shall find himself aggrieved by any order made under the provisions of this Act on such person as the putative father of any bastard child (b)], it shall be lawful for such person or persons to appeal to any general or quarter sessions of the peace to be held in and for the county, riding, or division in which such order shall have been made or conviction taken place within four calendar months next after the cause of complaint shall have arisen, or if such sessions shall be held before the expiration of one calendar month next after such cause of complaint, then such appeal shall be made to the next following sessions, either of which court of sessions is hereby empowered to hear and finally determine the matter of the said appeal, and to make such order therein as to them shall seem meet; which order shall be final and conclusive to and upon all parties: Provided that the person or persons so appealing shall give or cause to be given at least fourteen days notice in writing, of his, her, or their intention of appealing

(a) See 7 & 8 Vict. c. 101, ss. 32, 43, 49; 11 & 12 Vict. c. 31, ss. 5, 8; 12 & 13 Vict. c. 103, s. 10.

(b) See 7 & 8 Vict. c. 101, s. 1.

as aforesaid, and of the matter or cause thereof, to the respondent or respondents, and within five days after such notice shall enter into a recognizance before some justice of the peace, with sufficient securities, conditioned to try such appeal at the then next general sessions or quarter sessions of the peace which shall first happen, and to abide the order of and pay such costs as shall be awarded by the justices at such quarter sessions, or any adjournment thereof; and such justices, upon hearing and finally determining such matter of appeal, shall and may, according to their discretion, award such costs to the party appealing or appealed against as they shall think proper: And their determination in or concerning the premises shall be conclusive and binding on all parties to all intents and purposes whatsoever.

CIV. No action or suit shall be commenced against any commissioner, assistant commissioner, or any other person for any thing done in pursuance of or under the authority of this Act until twenty-one days notice has been given thereof in writing to the party or person against whom such action is intended to be brought, nor after sufficient satisfaction or tender thereof shall have been made to the party aggrieved, nor after three calendar months next after the act committed for which such action or suit shall be so brought; and every such action shall be brought, laid, and tried where the cause of action shall have arisen, and not in any other county or place; and the defendant in such action or suit may plead the general issue, and give this Act and any special matter in evidence, at any trial which shall be had thereupon; and if the matter or thing shall appear to have been done under or by virtue of this Act, or if it shall appear that such action or suit was brought before twenty-one days notice thereof given as aforesaid, or that sufficient satisfaction was made or tendered as aforesaid, or if any action or suit shall not be commenced within the time before limited, or shall be laid in any other county than as aforesaid, then the jury shall find a verdict for the defendant therein; and if a verdict shall be found for such defendant, or if the plaintiff in such action or suit shall become nonsuit, or suffer a discontinuance of such action, or if, upon any demurrer in such action, judgment shall be given for the defendant therein, then and in any of the cases aforesaid such defendant shall have costs, charges, and expences as between attorney and client, and shall have such remedy for recovering the same as any defendant may have for his or her costs in any other case by law.

CV. No rule, order, or regulation of the said commissioners or assistant commissioners, or any of them, shall be removed or removable by writ of *certiorari* into any court of record, except His Majesty's Court of King's Bench at Westminster (c); and every rule, order, or regulation which shall be removed by writ of *certiorari* into the said Court of King's Bench shall

Limitation of actions.
Defendant may plead the general issue.
Costs.
Rules, &c. to be removable by *certiorari* to court of King's Bench; and to continue in force

(c) See 5 & 6 Vict. c. 57, s. 8; 11 & 12 Vict. c. 110, s. 4; 12 & 13 Vict. c. 103, s. 15.

until declared illegal. nevertheless, unless and until the same shall be declared illegal by that court, continue in full force and virtue, and be obeyed, performed, and enforced, in such and the same manner, and by such and the same ways and means, as if the same had not been so removed.

As to the application for writ of *certiorari*.
 CVI. No application (*a*) shall be made for any writ of *certiorari* for the removal of any such rule, order, or regulation, except to the judges when sitting in the said court, nor unless notice in writing shall have been left at the office of the said commissioners at least ten days previous to such application being made, and in which notice shall be set forth the name and description of the party by or on behalf of whom and the

(*a*) See 5 Geo. 2, c. 19, s. 2; and 13 Geo. 2, c. 18, s. 5.

ORDERS OF POOR LAW COMMISSIONERS AND POOR LAW BOARD.

*Decisions on
 sect. 105.*

The orders of the poor law commissioners have the force of law unless and until they are set aside by the Court of Queen's Bench: *Reg. v. St. Andrew-Holborn-above-Bars, and St. George the Martyr*, 10 A. & E. 739.

An objection to the validity or legality of an order of the poor law commissioners cannot be taken on a return to a *mandamus*; so long as the order is not brought up by *certiorari* it must be obeyed: *Reg. v. St. Luke, Middlesex*, 2 Lumley, P. L. C. 11.

Quære, whether orders of the poor law commissioners bad in themselves must be obeyed until quashed on *certiorari* under 4 & 5 Will. 4, c. 76, s. 105: *Reg. v. Bangor*, 16 L. J. M. C. 59; 10 Q. B. 91; 11 J. P. 160.

As a general rule the validity of orders of the Poor Law Board can only be disputed by *certiorari*, under 4 & 5 Will. 4, c. 76, s. 105; but, if there be a manifest want of jurisdiction, *quære*: *Reg. v. Bristol*, 18 L. J. M. C. 132; 14 Jur. 568; 14 J. P. 353.

Although an order of the poor law board would have been wrong in directing three guardians to be elected for B. and two for D. instead of for the entire township of B. & D., if they constituted one township, still the order, until removed by *certiorari* and quashed, was valid *ad interim*, by virtue of 4 & 5 Will. 4, c. 76, s. 105, and the acts of the guardians under the order were valid: *Newbold v. Coltman*, 20 L. J. M. C. 149; 6 Exch. 189; 15 J. P. 372.

Until an order of the poor law board is set aside on *certiorari*, it is to be obeyed under 4 & 5 Will. 4, c. 76, s. 105, and the auditor is bound by it as regards the particular case to which it has reference: *Reg. v. Greene*, 21 L. J. M. C. 137; 17 Q. B. 793; 16 J. P. 183,

An order of the poor law commissioners may, like an order of justices, be quashed in part on *certiorari*, if the parts be sufficiently divisible: *Reg. v. Robinson*; *Reg. v. St. James, Westminster*, 17 Q. B. 474; 16 J. P. 70.

Rules of the poor law board in regard to the apprenticing of poor children, must be complied with until removed by *certiorari*, and quashed, under section 105 of stat. 4 & 5 Will. 4, c. 74, and if addressed to the respondent parish, the appellant parish could not object to them: *Reg. v. St. Mary Magdalen, Bermondsey*, 17 Jur. 1075; 2 E. & B. 809; 23 L. J. M. C. 1.

An order of the poor law board remains in force until quashed on *certiorari* under 4 & 5 Will. 4, c. 76, s. 105; and a general order is several in its nature, and, if bad, capable of being quashed by a parish, although it was addressed generally to a number of parishes and unions, as regards which it might be free from objection: *Brushfield v. Baynton*, 33 L. T. 145.

day on which it is intended to make such application, together with a statement of the grounds thereof; and thereupon it shall be lawful for the said commissioners to show cause in the first instance against such application; and the court may, if it shall so think fit, forthwith proceed to hear and determine the same upon the grounds set forth in such notice (b).

Commissioners may show cause.

CVII. Previous to any writ of *certiorari* being issued the party or parties applying for the same shall enter into a recognizance, with sufficient sureties, before one of His Majesty's justices of the Court of King's Bench, or before a justice of the peace of the county or place in which such person shall reside, in the sum of fifty pounds, with condition to prosecute the same, at his or their costs and charges, with effect, without any wilful or affected delay, and in default thereof, or in the event of such rule, order, or regulation being deemed legal, to pay the said commissioners their full costs, charges, and expences, to be taxed according to the course of the said Court of King's Bench; and if the said rule, order, or regulation, so removed by the said writ of *certiorari* into the said Court of King's Bench, shall be declared legal by the said court, the commissioners entitled to such costs, within ten days after demand made of the person or persons who ought to pay the said costs, upon oath made of the making such demand and refusal of payment thereof, may recover the same in the same manner as any penalties and forfeitures are recoverable under this Act.

Recognizances to be entered into.

If rule be declared legal, commissioners to be entitled to costs.

CVIII. If upon the hearing of the application the court shall order a writ of *certiorari* to issue for bringing up any such rule, order, or regulation, and the same being brought into court shall be quashed as illegal, the said commissioners shall forthwith notify the judgment of the court to all unions, parishes, or places to which such rule, order, or regulation shall have been directed, and the same shall from the time of receiving such notice respectively be deemed and taken to be null and void to all intents and purposes whatsoever: Provided that such judgment shall not have the effect of annulling any contracts made in pursuance or upon the authority of any such rule, order, or regulation which at the receipt of such notice respectively, shall have been executed by either of the contracting parties: Provided also, that no person shall be liable to be prosecuted, either by indictment or by civil action, for or in respect of any Act done by him before the receipt of such notice, under the authority and in pursuance of such rule, order, or regulation.

If rules are quashed, the same to be notified.

Proviso for existing contracts.

No person to be answerable until receipt of notice.

CIX. In the construction of this Act the word "auditor" shall be construed to mean and include every person, other than justices of the peace acting in virtue of their office, appointed or empowered to audit, control, examine, allow, or disallow the accounts of any guardian, overseer, or vestryman, relating to the receipt or expenditure of the poor rate;

Interpretation clause.

the words "general rule" shall be construed to mean any rule relating to the management of the poor or to the execution of this Act which shall at the time of issuing the same be addressed by the said commissioners to more than one union, or to more parishes or places than one not forming a union, or not to be formed into or added to a union under or by virtue of such rule; the word "guardian" shall be construed to mean and include any visitor, governor, director, manager, acting guardian, vestryman, or other officer in a parish or union, appointed or entitled to act as a manager of the poor, and in the distribution or ordering of the relief to the poor from the poor rate, under any general or local act of parliament; the words "justice or justices of the peace" shall be construed to include justices of the peace of any county, division of a county, riding, borough, liberty, division of a liberty, precinct, county of a city, county of a town, cinque port, or town corporate, unless where otherwise provided by this Act: the word "oath" shall be construed to include the affirmation of a Quaker, Separatist, or Moravian; the words "orders and regulations" shall be construed to mean and include any rule, order, regulation, or bye-law relating to the management or relief of the poor, or the execution of this Act, which at the time of issuing the same shall be addressed, directed, or applied to any one parish or union, or to any number of parishes which have been or by virtue of any order shall be constituted a union or added to a union; the word "officer" shall be construed to extend to any clergyman (*a*), schoolmaster, person duly licensed to practise as a medical man, vestry clerk (*b*), treasurer, collector, assistant overseer, governor, master or mistress of a workhouse, or any other person who shall be employed in any parish or union in carrying this Act or the laws for the relief of the poor into execution, and whether performing one or more of the above-mentioned functions; the word "overseer" shall be construed to mean and include overseers of the poor, churchwardens, so far as they are authorized or required by law to act in the management or relief of the poor, or in the collection or distribution of the poor rate, assistant overseer, or any other subordinate officer, whether paid or unpaid, in any parish or union, who shall be employed therein, in carrying this Act or the laws for the relief of the poor, into execution (*c*); the word "owner" shall be construed to include any person for the time being in the actual occupation of any property rateable to the relief of the poor, and not let to him at rack rent, or any person receiving the rack rent of any such property, either on his own account, or as mortgagee, or other incumbrancer in possession (*d*); and the words "rack rent" shall be construed to mean any rent which shall not be less than two-thirds of the full improved net annual value of any property; the word "parish" shall be

(*a*) See 34 & 35 Vict. c. 66, s. 2.

(*b*) See 13 & 14 Vict. c. 57.

(*c*) See 32 & 33 Vict. c. 41, s. 20.

(*d*) See 32 & 33 Vict. c. 41, s. 20.

construed to include any parish, city, borough, town, township, liberty, precinct, vill, village, hamlet, tithing, chapelry, or any other place, or division or district of a place, maintaining its own poor, whether parochial or extra-parochial (*e*); the word "person" shall be construed to include any body politic, corporate, or collegiate, aggregate or sole, as well as any individual; the word "poor" shall be construed to include any pauper or poor or indigent person applying for or receiving relief from the poor rate in England or Wales, or chargeable thereto; the words "poor law," or "laws for the relief of the poor," shall be construed to include every Act of parliament for the time being in force for the relief or management of the poor, or relating to the execution of the same, or the administration of such relief; the words "poor rate" shall be construed to include any rate, rate in aid, mulct, cess, assessment, collection, levy, ley, subscription or contribution raised, assessed, imposed, levied, collected, or disbursed for the relief of the poor in any parish or union (*f*); that the words "general quarter sessions" shall extend to and be construed to include general or quarter sessions, or adjournment thereof for any county, division of a county, riding, borough, liberty, division of a liberty, precinct, county of a city, city, county of a town, cinque port, or town corporate, unless where otherwise provided by this Act; the word "union" shall be construed to include any number of parishes united for any purpose whatever under the provisions of this Act, or incorporated under the said Act made and passed in the twenty-second year of His late Majesty King George the Third, intituled, "An Act for the better Relief and ^{22 Geo III.} Employment of the Poor," or incorporated for the relief or ^{c. 83.} maintenance of the poor under any local Act; the words "united workhouse" shall be construed to mean and include any workhouse of a union; the word "vestry" shall be construed to mean any open, customary, or select vestry, or any meeting of inhabitants convened by any notice such as would have been required for the assembling of a meeting in vestry, at which meeting any business relating to the poor or the poor rate shall be transacted or taken into consideration, so far as such business is concerned; the word "workhouse" shall be construed to include any house in which the poor of any parish or union shall be lodged and maintained, or any house or building purchased, erected, hired, or used at the expence of the poor rate, by any parish, vestry, guardian, or overseer, for the reception, employment, classification, or relief of any poor person therein at the expence of such parish; and wherever in this Act, in describing any person or party, matter or thing, the word importing the singular number, or the masculine gender only is used, the same shall be understood to include and shall be

(*e*) See 20 Vict. c. 19, s. 1; and 29 & 30 Vict. c. 113, s. 18; 32 & 33 Vict. c. 41, s. 20.

(*f*) See 32 & 33 Vict. c. 41, s. 20.

applied to several persons or parties as well as one person or party, and females as well as males, and several matters or things as well as one matter or thing, respectively, unless there be something in the subject or context repugnant to such construction (a).

* * * * *

(a) See 5 & 6 Will. 4, c. 69, s. 9; s. 21; 13 Vict. c. 21, s. 4; 29 & 30
5 & 6 Vict. c. 57, s. 18; 7 & 8 Vict. Vict. c. 113, s. 18; and 30 Vict. c. 6,
c. 101, s. 74; 12 & 13 Vict. c. 103, s. 2.

CANONS OF INTERPRETATION.

*Decisions on
sect. 109.*

The words "from the day of the date" in a deed may mean either inclusive or exclusive of the day, according to the context and subject matter; and the court will construe the word "from" so as to effectuate the deeds of parties and not to destroy them: *Pugh v. Duke of Leeds*, 2 Cowp. 714.

The rules laid down in respect of the construction of deeds are founded in law, reason, and common sense: that they shall operate according to the intention of the parties, if by law they may; and if they cannot operate in one form, they shall operate in that which by law will effectuate the intention. Per Lord Mansfield, C. J.: *Goodtitle v. Bailey*, 2 Cowp. 600.

To interpret the language of the legislature, we must look at the intention of the legislature, as it is to be collected from the Act, and the state of the law at the time when it was passed. Lord Campbell, C. J.: *Reg. v. Trafford*, 4. N. S. C. 134.

A city and county of a city, consisting of several parishes incorporated by statute for the maintenance of the poor out of a common fund, is a parish within 9 & 10 Vict. c. 66, as explained by 4 & 5 Will. 4, c. 76, s. 109, and a pauper who, for five years next before the application for a warrant of removal, resided within the city, was irremovable under sect. 1: *Reg. v. Holy Trinity, Exeter*, 4 N. S. C. 438.

The following rule was laid down by Lord Cottenham, C., for applying the interpretation clause in an Act of parliament: "Now," he said, "the object of these Acts being framed with these interpretation clauses, is, by the means and through the agency of the interpretation clause, to avoid the necessity of frequent repetition in describing all the subject-matter to which the Act was intended to apply. It uses, therefore, one expression, and then, by the interpretation clause, declares that the expression shall have certain meanings other than the ordinary meaning of the word used; and the way to apply that interpretation clause is, when you find the word used in other enactments, to follow the direction of the interpretation clause, and according to the subject-matter, to read it as if it contained the other words which, by the interpretation clause, it is meant to include. Therefore in the case of a city, the interpretation clause directs that when you find the word 'borough' you must construe it to mean 'city,' and when you find the word 'burgess,' you must construe it to mean 'citizen:'" *Attorney General v. Worcester Corporation*, 15 L. J. Ch. 299.

An interpretation clause is not to receive a rigid construction; and it is not to be taken as substituting one set of words for another, nor as strictly defining what the meaning of a word must be under all circumstances. It merely declares what persons may be comprehended within a particular term, where the circumstances require that they should.—*Per* Lord Denman, C. J.: *Reg. v. Cambridgeshire JJ.*, 7 A. & E. 791.

The directors of the poor of the parish of St. Pancras were "guardians" within the definition of the 109th section of 4 & 5 Will. 4, c. 76; and an order of the poor law board to appoint an auditor, under section 46 of that Act, was held to have been properly addressed to the directors alone: *Reg. v. St. Pancras*, E. B. & E. 583; 27 L. J. (N. S.) M. C. 281; 5 Jur. (N. S.) 120.

5 & 6 WILL. IV. CHAP. 20.

AN ACT to consolidate certain Offices in the Collection of the Revenues of Stamps and Taxes; and to amend the Laws relating thereto.

[30th July, 1835.]

* * * * *

XXI. "And whereas by the said last-recited Act (*a*) certain penalties and forfeitures for offences against the said Act are directed to be paid to some one of the overseers of the poor, or to some other officer (as the convicting justice or justices may direct) of the parish, township, or place in which the offence shall have been committed, to be by such overseer or officer paid over to the use of the general rate of the county, riding, or division in which such parish, township, or place shall be situate; and it is expedient to reward the persons who shall prosecute offenders against the said Act;" Be it therefore enacted, that from and after the passing of this Act one moiety of all such penalties and forfeitures as by the said last-recited Act are directed to be paid and applied as aforesaid shall go and be paid to the person who shall inform and prosecute for the same, and the other moiety thereof only shall go and be paid to such overseer or officer as aforesaid, and be by him applied in the manner by the said last-recited Act directed (*a*); and the form of conviction set forth in the said last-recited Act shall, so far as relates to the distribution of the penalty for which judgment shall be given, be made according to the fact and conformably with the direction given by this Act as to such distribution (*b*).

* * * * *

5 & 6 WILL. IV. CHAP. 33.

AN ACT for preventing the vexatious Removal of Indictments into the Court of King's Bench; and for extending the Provisions of an Act of the Fifth Year of King William and Queen Mary, for preventing Delays at the Quarter Sessions of the Peace, to other Indictments; and for extending the Provisions of an Act of the Seventh Year of King George the Fourth as to taking Bail in Cases of Felony.

[21st August, 1835.]

"WHEREAS it is expedient to prevent prosecutors of indictments and presentments from vexatiously removing the same out of inferior courts into His Majesty's Court of King's Bench:" Be

(*a*) See 1 & 2 Will. 4, c. 32, ss. 25, 27. (*b*) See 1 & 2 Will. 4, c. 32, s. 37.

No *certiorari* shall issue to remove indictments, &c. from inferior courts to the Court of King's Bench, at the instance of a prosecutor without leave from that court.

Defendants to enter into certain recognizances before obtaining writ of *certiorari* to remove indictment, &c.
5 & 7 W. & M. c. 11.

it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this Act no writ of *certiorari* shall issue from the Court of King's Bench at Westminster for removing into that court any indictment or presentment from any court of session, assize, oyer and terminer, or gaol delivery, or any other court, at the instance of the prosecutor or any other person (except His Majesty's attorney-general), without motion first made in the Court of King's Bench, or before some judge of that court, and leave obtained to remove such indictment or presentment, in the same manner as similar motions may now be made and leave given where such application is made on the part of defendants; any law, practice, or usage to the contrary in anywise notwithstanding (*a*).

II. "And whereas it is expedient to extend the powers of an Act passed in the fifth year of the reign of King William the Third and Queen Mary, intituled 'An Act to prevent Delays of Proceedings at the Quarter Sessions of the Peace:'" Be it therefore enacted, that instead of the recognizance now by law required to be entered into before the allowance of a writ of *certiorari*, every person indicted or presented in any court of session, assize, oyer and terminer, gaol delivery or any other court, who shall obtain a writ of *certiorari* for removing any indictment or presentment whatever into the Court of King's Bench, not being in custody for want of bail to answer such indictment or presentment, shall, before the allowance of such writ, enter into a recognizance before one of His Majesty's justices of the Court of King's Bench, or before a justice of the peace of the county or place in which the offence is charged to have been committed, or in which such person shall reside, in such sum and with such sureties as the said Court of King's Bench, or one of His Majesty's justices of the said court, shall by indorsement on the said writ order and direct; which recognizance shall contain the same conditions as are now by the said Act, and another Act passed in the eighth and ninth year of the reign of King William the Third, intituled "An Act to make perpetual and more effectual an Act, intituled 'An Act to prevent Delays at the Quarter Sessions of the Peace,'" required in cases of indictments removed from the general or quarter sessions of the peace; and thereupon all the clauses and provisions contained in the said several Acts with respect to costs or otherwise shall extend to such last-mentioned recognizances; and every person being in custody for want of bail to answer the charge contained in such indictment or presentment shall be detained in custody until the like recognizances as are hereinbefore directed to be entered into (pre-

(*a*) See 5 & 6 W. & M. c. 11, s. 3; 8 & 9 Will. 3, c. 33; and 5 Geo. 2, c. 19, ss. 2 and 3.

vicious to the allowance of such writ of *certiorari*) shall have been entered into, or until such person be discharged by due course of law (b).

* * * * *

5 & 6 WILL. IV. CHAP. 50.

AN ACT to consolidate and amend the Laws relating to Highways in that part of Great Britain called England.
[31st August, 1833.]

* * * * *

XXVIII. And in order to enable the surveyor to form a proper judgment of any rate to be made in pursuance of this Act, be it further enacted, that it shall be lawful for the surveyor, and he is hereby authorized and empowered, at all reasonable times, to inspect, or by writing signed by him to grant authority to any person appointed by him to inspect, any of the rates made towards the relief of the poor of the parish of which he is surveyor, or the books wherein the assessments thereto shall be entered, without fee or reward; and the surveyor, or person by him authorized as aforesaid, shall be allowed to make a copy of such rate or books, or to take any extracts therefrom; and if any person in whose custody or power any of the said rates or books shall be, shall when thereunto required in manner aforesaid, refuse or neglect to produce the same to the surveyor, or person so by him authorized as aforesaid, as the case may be, or to allow such copy or extract to be made or taken, at all reasonable hours in the daytime, he shall for every such offence forfeit and pay any sum not exceeding five pounds.

* * * * *

5 & 6 WILL. IV. CHAP. 62.

AN ACT to repeal an Act of the present Session of Parliament, intituled "An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire Suppression of voluntary and extra-judicial Oaths and Affidavits;" and to make other provisions for the Abolition of unnecessary Oaths.

[9th September, 1835.]

* * * * *

IX. "And whereas persons serving the offices of church-warden and sidesman are at present required to take an oath Churchwarden's and

(b) See 5 & 6 W. & M. c. 11, s. 3; 8 & 9 Will. 3, c. 33; and 5 Geo. 2, c. 19, ss. 2 and 3.

sidesman's
oath abolished,
and a declara-
tion to be made
in lieu thereof.

of office before entering upon the execution thereof, and also an oath on quitting such office, and it is expedient that a declaration shall be substituted for such oath of office, and that the oath on quitting the same shall be abolished;” Be it enacted that in future every person entering upon the office of churchwarden or sidesman, before beginning to discharge the duties thereof, shall, in lieu of such oath of office, make and subscribe, in the presence of the ordinary or other person before whom he would, but for the passing of this Act, be required to take such oath, a declaration that he will faithfully and diligently perform the duties of his office, and such ordinary or other person is hereby empowered and required to administer the same accordingly: Provided always, that no churchwarden or sidesman shall in future be required to take any oath on quitting office, as has heretofore been practised (a).

* * * * *

5 & 6 WILL. IV. CHAP. 69.

AN ACT to facilitate the Conveyance of Workhouses and other Property of Parishes and of Incorporations or Unions of Parishes in England and Wales (b).

[19th September, 1835.]

“ WHEREAS there are certain legal difficulties attending the title, purchase, sale and disposal of property, which, with respect to workhouses and other property belonging to parishes, incorporations, or unions, it is expedient to remove; and it is also expedient to simplify the assurances for the conveyance, exchange, or transfer of such property:” Be it therefore enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that it shall be lawful for the commissioners of the King’s Majesty’s woods, forests, and land revenues, by and with the consent in writing of the lord high treasurer or the commissioners of His Majesty’s treasury, or any three or more of them, and for His Majesty, by any grant signed by the chancellor of the Duchy of Lancaster, and for the Duke of Cornwall, by any grant signed by the chancellor of that Duchy, to grant, and for the guardians and overseers of the poor of any parish or union of parishes (c) under the direc-

Powers for corporations and persons under disability to convey lands, &c. for the purposes of this Act.

(a) See 43 Eliz. c. 2. s. 1; and 31 & 32 Vict. c. 72.

(b) See 30 & 31 Vict. c. 106, s. 30.

(c) See 5 & 6 Vict. c. 18, s. 1.

CONTINUANCE OF CHURCHWARDENS IN OFFICE.

A churchwarden remains in office and is liable for the nonperformance of the duties thereof, until his successor has made and subscribed the declaration required under the provisions of the 5 & 6 Will. 4, c. 62, s. 9: *Bray, app., Somers, resp., 8 Jur. (N. S.) 716; 2 B. & S. 374.*

tion and with the approbation of the poor law commissioners for England and Wales (to be testified by order under their hands and seal), and for any lay or ecclesiastical corporation, aggregate or sole, and for any feoffees or trustees to charitable or other uses, and for any person beneficially seised or entitled in possession as tenant in fee simple, or in fee tail, general or special, or for his own life, or for years determinable on his own life (such estate for life or years not being subject to any rent), or for any term of years in gross whereof not less than four hundred shall be unexpired, and subject to no equity of redemption or rent, except a nominal rent, and for any married woman entitled or interested as aforesaid to her separate use, and for the guardian, trustee, husband, or committee of any person so seised or entitled, who shall be an infant, married woman (not separately entitled), idiot, lunatic, or under any other disability, to dispose of, by way of absolute sale, or in exchange for any messuages, lands, or other hereditaments, any lands (*d*) or buildings for the purpose of the same being used as or converted into a workhouse, or of being used as the site of a workhouse, or of being occupied with a workhouse, or for any other purpose relating to the relief of the poor which the said poor law commissioners may approve of, with the rights and appurtenances, and to convey the same and the fee simple and inheritance thereof unto the guardians or overseers of any union or parish and their successors, or in such other manner as the said poor law commissioners may direct, and to accept from and give to such guardians or overseers any monies by way of equality of exchange (*e*).

II. And with regard to the application of money paid for the purchase or on the exchange of hereditaments of persons under disability; Be it enacted, that all sums of money which shall be agreed to be paid to any corporation, or to any trustee, guardian, or committee for or on behalf of any infant, ward, lunatic, idiot, married woman, or other person under disability, or to

Investment of purchase money to the same uses as the estates sold were subject to.

(*d*) See 1 Vict. c. 50, s. 1.

(*e*) See 20 & 21 Vict. c. 13.

COSTS.

By 5 & 6 Will. 4, c. 69, ss. 1, 2, certain guardians of the poor were empowered to purchase property for the purposes of the Act, and were directed to pay the expenses attending such purchase; the same to be, when paid, a charge on the poor rates of the parish. The guardians purchased some land belonging to Lady Byron at M. B., and the purchase money was paid into court by them, and invested. She presented a petition for payment of the money out of court, wishing to apply to it the purchase of other property: The costs of that petition are within the Act; but the costs of an agreement between the petitioner as to the subsequent purchase, and her vendors, are not to be paid by the guardians under the Act: *Ex parte Byron (Baroness)*, re *The Act 5 & 6 Will. 4, c. 69*; 21 L. T. 288.

Decisions on sect. 1.

STATUTE OF MORTMAIN.

A conveyance of land to trustees for the benefit of the poor of the parish, as, for building a workhouse, is not void as being under the Statute of Mortmain, 9 Geo. 2, c. 36: *Burnaby v. Barsby*, 33 L. T. 286.

any person whose lands shall be limited in settlement, for the purchase or exchange of hereditaments as aforesaid, shall, in case the same shall exceed the sum of fifty pounds, and there shall be no person capable of giving a sufficient discharge for the same, be paid by the said guardians and overseers into the Bank of England in the name and with the privity of the Accountant-General of the Court of Exchequer, to be placed in his account to the credit of the party who shall be so interested in the said hereditaments, describing them, subject to the order of the said Court of Exchequer; which said court, on the petition of or motion on behalf of any corporation or person making claim to any such money, is hereby empowered to order summarily the investment of such money in the purchase of real estates, to be settled to the same uses and upon the same trusts as the lands so sold were previously subject to, or in the public funds, and the distribution of the rents and dividends thereof respectively, according to the respective interests of the claimants thereof, and to make such other order in the premises as to the court shall seem reasonable; and the cashier of the Bank of England who shall receive such money shall give a receipt to the party paying the same, specifying for what the same is received, which receipt shall be to all intents and purposes a sufficient discharge; and upon such receipt being given, it shall be lawful for the said poor law commissioners, by order under their hands and seals, to direct that the said hereditaments so purchased by such guardians or overseers shall be appropriated for the purposes of this Act; and in case of doubts or questions of title to any money paid into the Bank of England by virtue of this Act, or the securities on which the same may be invested, or the dividends or interest thereof, the corporation or person who shall have been in the possession of such hereditaments, interests, or incumbrances at the time of such purchase, and persons claiming under them, shall be deemed and taken to be lawfully entitled to such hereditaments, interests, or incumbrances, until the contrary shall be shown to the satisfaction of the said Court of Exchequer; and the securities and principal and interest monies shall be applied and disposed of accordingly; and in case of such purchase, payment into the Bank of England, and application to the Court of Exchequer as aforesaid, it shall be lawful for the said court to order the expences attending such purchase, payment, or application, or any part thereof, to be paid by such guardians or overseers, who shall accordingly pay the same as and when the said court shall direct, and the money so paid shall be a charge on the poor rates of such parish or such union, as the case may be.

Parties in possession to be deemed entitled.

Court of Exchequer may order payment of expences.

Power to overseers and guardians of the poor to sell, purchase and dispose of

III. And in order to insure the due application of the property of parishes and unions, be it enacted, that it shall be lawful for the guardians of any parish or union, and for the overseers of any parish not under the management of a board of guardians, and for the guardians or trustees, guardian or trustee of any

dissolved union, or the person or persons who were the guar- workhouses,
 dians or trustees, guardian or trustee of any dissolved union at &c.
 the time of its dissolution (a), or a majority of such guardians,
 trustees, or persons, if more than one, with the approbation, and
 subject to the rules, orders, and regulations of the poor law
 commissioners, to sell, exchange, let, or otherwise to dispose of
 any workhouses, tenements, buildings, land, effects, or other
 property belonging to any such parish or union, or vested in
 trustees or feoffees in trust for such parish or union, or for the
 parishioners, ratepayers, or inhabitants thereof, or which belong
 or did belong to any dissolved union, and every and any part of
 such property, and to convey, assign, or transfer the same
 accordingly to the purchasers or parties exchanging, as they
 shall direct (b), and, in case of a sale, to apply the produce arising
 therefrom (after deducting the reasonable expences thereof)
 towards the purchase or building of any workhouse, or as or
 in part of the proportion of such parish or union towards the
 expence of any workhouse erected, purchased, or provided on
 behalf of such parish or union, or as a loan to the board of
 guardians of such union, upon the security of the rates, for the
 purpose of erecting a workhouse, or in liquidation of any debt
 contracted by such parish or union or dissolved union (c), or in
 such other manner for the permanent advantage of such parish
 or union or dissolved union as the said poor law commissioners
 may approve; and in case of an exchange, the hereditaments
 to be taken in exchange shall be conveyed to the guardians of
 such parish or union, or the overseers of such parish, upon the
 same trusts, and the rents and profits thereof shall be applied to
 the same purposes, as the hereditaments given in exchange
 were held, and the rents and profits thereof would have been
 applicable under the provisions of the law or of this Act if the
 same hereditaments had not been exchanged; and it shall be
 lawful for the said poor law commissioners to direct the mode
 and proportions on parishes in which any money required for
 the purchase of any such property shall be raised, paid, and
 secured, and also to direct the mode in which the persons by
 whom, and the objects relating to the management of the poor
 to which the rents, profits, beneficial occupation, or income of
 such property shall be applied, assigned, or distributed; and
 wheresoever the workhouse or workhouses of any parish in any
 union may have become or shall hereafter become convertible to
 the common use of such union, it shall be lawful for the said
 poor law commissioners to direct such an annual sum, in the
 nature of rent or other compensation, to be paid to such parish
 out of the common fund of the union, and to vary the amount
 of such annual sum or compensation from time to time as they
 the said poor law commissioners shall see fit: Provided always,

(a) See 30 & 31 Vict. c. 106, s. 17; (c) See 1 Vict. c. 25, s. 2; 5 & 6
 and 32 & 33 Vict. c. 63, s. 5. Vict. c. 18, s. 4; and 32 & 33 Vict.

(b) See 59 Geo. 3, c. 12, s. 9; 1 & 2 c. 45.
 Geo. 4, c. 56.

that no such sale or exchange or letting of any workhouses, tenements, buildings, or land of any parish shall take place except with the consent of a majority of the ratepayers of such parish, and of the owners of property therein, entitled to vote under and by virtue of the Act passed in the fourth and fifth years of the reign of His present Majesty, intituled "An Act for the Amendment and better Administration of the Laws relating to the Poor in England and Wales," assembled at a meeting to be duly convened and held for the purpose, after public notice of the time and place and purpose of holding such meeting shall have been given in like manner as notices of vestry meetings are published and given (*a*), such majority to be ascertained in manner provided by the said Act (*b*): Provided also, that every sale and exchange or lease of any such workhouse, tenements, buildings, land, or other property, which may have been made before the passing of this Act, with the consent or approbation in writing of the said poor law commissioners, shall be as valid and effectual as if the same had been directed by their order under the authority of this Act; and that any monies or rents which have become or shall become payable in respect of any such sale, exchange, or lease, and have not been applied, shall be applied in the same manner as such monies or rents would have been applicable if such sale or exchange or lease had been made under this Act (*c*).

Power to
overseers, &c.
extended to
guardians, &c.
22 Geo. III.
c. 83.

IV. All the powers and authorities in and by an Act passed in the twenty-second year of the reign of King George the Third, intituled "An Act for the better Relief and Employment of the Poor," given to guardians of the poor for or relating to the inclosing of any part or portion of waste or common land as

(*a*) See 58 Geo. 3, c. 69.

Vict. c. 18, s. 2; and 33 Vict. c. 2,

(*b*) See 4 & 5 Will. 4, c. 76, s. 40. s. 12.

(*c*) See 4 & 5 Vict. c. 38, s. 6; 5 & 6

TRANSFER OF LEGAL ESTATE.

*Decisions on
sect. 3.*

The 5 & 6 Will. 4, c. 69, does not transfer the legal estate in a parish workhouse from the churchwardens and overseers to the guardians of the union of which the parish forms a part, though sect. 3 authorizes the guardians to "sell, exchange, let," "dispose of," "convey, assign" and "transfer" it to the purchasers: *Doe d. Norton v. Webster*, 12 A. & E. 442; 9 L. J. Q. B. 337; 4 P. & D. 270.

The 5 & 6 Will. 4, c. 69, does not transfer from the parish officers the legal estate in parish property to the guardians of the union: *Worge v. Relfe*, 11 L. J. M. C. 125.

EXEMPTION FROM STAMP DUTY.

An agreement entered into by the guardians of a union with the proposed purchaser, for the sale to him of certain parish cottages and premises, in pursuance of an order of the poor law commissioners, under s. 3 of 5 & 6 Will. 4, c. 69, is an agreement exempt from stamp duty under s. 86 of 4 & 5 Will. 4, c. 76: *Banbury v. Robinson*, 12 L. J. Q. B. 327; 4 Q. B. 919.

therein mentioned (*d*); and all powers and authorities in and by an Act passed in the fifty-ninth year of the same reign, intituled "An Act to amend the Laws for the Relief of the Poor," 59 Geo. III. given to churchwardens and overseers of the poor for taking c. 12. land or ground into their hands, and for purchasing, hiring, and taking on lease any land (*e*); and all the powers and authorities contained in an Act passed in the first and second years of the reign of His present Majesty, intituled "An Act to amend 1 & 2 Will. IV. an Act of the Fifty-ninth year of His Majesty King George the c. 42. Third, for the Relief and Employment of the Poor;" and in a certain other Act passed in the first and second years of the reign of His present Majesty, intituled "An Act to enable 1 & 2 Will. IV. Churchwardens and Overseers to inclose Land belonging to c. 59. the Crown for the Benefit of poor Persons residing in the Parish in which such Crown Land shall be situate;" and in a certain other Act passed in the second year of the reign of His present Majesty, intituled "An Act to authorize (in Parishes 2 & 3 Will. IV. inclosed under any Act of Parliament) the letting of the Poor c. 42. Allotments in small Portions to industrious Cottagers;" shall in future be exercised (under the control, and subject to the rules, orders, and regulations of the poor law commissioners), by the overseers of the poor in any parish not under the management of a board of guardians, and by the guardians of the poor of any union or parish formed or established by virtue of any statute or local Act; and all the aforesaid powers and authorities relating to the inclosing, purchasing, hiring, or taking any waste, common, or other land, for the purpose or purposes in the said Acts mentioned, shall extend and apply to and may be so exercised as aforesaid by the said overseers and guardians for the purpose of being used as the site of a workhouse, or of being occupied with a workhouse, or for any other of the purposes of the said recited Act passed in the fourth and fifth years of the reign of His present Majesty.

V. The powers and authorities given by the said Act of the fifty-ninth year of King George the Third (*f*), and by the said Powers given to justices to deliver posses-

(*d*) Gilbert's Act (22 Geo. 3, c. 38) was repealed by the Statute Law Revision Act, 1871, (34 & 35 Vict. c. 116). The following is the section of the Act (22 Geo. 3, c. 83, s. 27) referred to in the text:—"In order to encourage the salutary and benevolent purposes of this Act, and to afford better accommodations for the poor at such poor-houses, it shall and may be lawful for the guardians of the poor, where any such poor-house shall be provided, purchased or agreed to be erected, to inclose from any waste or common land or ground lying near or adjoining thereto, with the consent and approbation of the lord of the manor,

and the major part in value of the freeholders or persons having right of common thereupon, signified under their hands and seals, any part or portion of such waste or common land, not exceeding ten acres, for the purpose of building upon, or occupying, cultivating and improving the same, for the use and benefit of such poor-house, and the poor persons, within the parish, township or place, where the same shall be, or within the parishes, townships or places, which shall be united therewith for the purposes of this Act."

(*e*) See 59 Geo. 3, c. 12, ss. 12, 13, 18.

(*f*) See 59 Geo. 3, c. 12, s. 24.

sion of parish houses, &c. to churchwardens and overseers extended to property of unions, &c.

Act of the second year of the present reign (*a*), to justices of the peace to cause possession of parish houses and lands and portions of land to be delivered to the churchwardens and overseers of the poor, and any other auxiliary powers or provisions in the said Acts or other Acts contained in relation thereto, shall extend to, and shall be exercised by such justices in respect of any houses and lands and portions of land which are or may be vested in or under the management or control of the guardians of the poor of any union or parish, in the same manner as if the names of those officers had been inserted in the said Acts instead of the names of the churchwardens and overseers of the poor.

Mode of conveyance.

VI. And, for simplifying the instruments of assurance of property under this Act, be it enacted, that every conveyance, exchange, security, or assignment of security, under the authority of this Act, may be made according to the forms set forth in the schedule annexed (*b*), or in such other forms as the said poor law commissioners shall direct, or as near thereto as the number of parties, the nature of the interests, and the circumstances of the case will admit, and shall, when executed by the conveying parties, be valid and effectual in the law, without livery of seisin being made, or any bargain and sale to vest possession being executed (*c*); and that every conveyance, exchange, security, transfer of security, or instrument made under the authority of this Act, shall, when signed by the conveying parties thereto, be transmitted to the said poor law commissioners, who shall, if they shall approve thereof, signify such approval by sealing or stamping the same with their seal; and for preserving evidence of such instruments the said commissioners shall keep a register, properly indexed, in which they shall insert copies or memorials of such deeds or instruments of which they shall so approve, and of such orders of appropriation of property as are hereinbefore mentioned; and all such copies or materials, or copies thereof, purporting to be sealed or stamped with the seal of the said commissioners, shall be received as evidence of the instruments respectively of which they purport to be copies or memorials.

Approval of the poor law commissioners.

Guardians incorporated.

VII. And for the more easy execution of the purposes of this Act, and of the laws relating to the poor, be it enacted, that the guardians of the poor of every union already formed or which hereafter shall be formed by virtue of the aforesaid Act passed in the fourth and fifth years of the reign of His present Majesty, and of every parish placed under the control of a board of guardians by virtue of the said Act, shall respectively from the day of their first meeting as a board become or be deemed to have become, and they and their successors in office shall for ever continue to be, for all the purposes of this Act (*d*), a corporation, by the name of the guardians of the poor of the union

(*a*) See 2 & 3 Will. 4, c. 42, s. 6.

(*b*) See 14 & 15 Vict. c. 105, s. 7.

(*c*) See 1 Vict. c. 50, s. 4.

(*d*) See 5 & 6 Vict. c. 57, s. 16.

(or of the parish of) in the county of : and as such corporation the said guardians are hereby empowered to accept, take, and hold, for the benefit of such union or parish, any buildings, lands, or hereditaments, goods, effects, or other property, and may use a common seal; and they are further empowered by that name to bring actions, to prefer indictments, and to sue and be sued, and to take or resist all other proceedings, for or in relation to any such property, or any bonds, contracts, securities, or instruments given or to be given to them in virtue of their office; and in every such action and indictment relating to any such property it shall be sufficient to lay or state the property to be that of the guardians of the union, or of the parish of ; and in case of any addition to or separation of any parishes from any such union, under the authority of the said Act passed in the fourth and fifth years of the reign of His present Majesty, the board of guardians for the time being shall (notwithstanding such alteration) have and enjoy the same corporate existence, property and privileges as the board of guardians of the original union would have had and enjoyed had it remained unaltered.

VIII. All buildings, lands, or hereditaments, goods, effects, or other property, which, before the passing of this Act, may have been conveyed, with the consent or under the directions of the said poor law commissioners, to any persons in trust for and for the use of any union or parishes, shall, without any further Act, vest in the guardians thereof as such corporation, in the same manner as if the same respectively had been conveyed to or vested in them under the provisions of this Act.

Previous sales made with the consent of the commissioners to be valid.

IX. And in the interpretation of this Act, be it enacted, that wherever in this Act, in describing any person or party, matter or thing, the word importing the singular number or the masculine gender only is used, the same shall be understood to include and shall be applied to several persons or parties as well as one person or party, and females as well as males, and several matters or things as well as one matter or thing respectively, unless there be something in the subject or context repugnant to such construction; and the words and expressions "general rule," "guardian," "justice or justices of the peace," "orders and regulations," "overseers," "owners of property," "parish," "person," "poor," "poor rate," "union," "vestry," and "workhouse," shall bear and be construed to have the same signification as the same words and expressions are declared to have in the said Act of the fourth and fifth years of

Interpretation clause.

DESCRIPTION OF WORKHOUSE IN INDICTMENT.

In an indictment for burglary in the workhouse of a union, the workhouse, being under the provisions of the 5 & 6 Will. 4, c. 69, s. 7, may be described as the dwelling-house of the guardians of the poor of that union. *Decision on sect. 7.*
Semble, not as that of the master of the workhouse: *Reg. v. Frowen*, 4 Cox, C. C. 266.

the present reign, for the Amendment and better Administration of the Laws relating to the Poor in England and Wales (a).

SCHEDULE to which this Act refers.

Form of Conveyance.

This deed, made the day of in the year
by virtue of an Act passed in the fifth and sixth years
of the reign of King William the Fourth, intituled [*the title
of this Act*], and under the direction [*or with the appro-
bation*] of the poor law commissioners for England and
Wales, testified by their seal being hereunto affixed, witnesseth,
that *A. B.* of in consideration of the sum of paid to
him [*or into the Bank of England*] by *C. D.* of doth
grant and convey [*or demise or assign, proper words of convey-
ance to be used*], all, &c., [*the property to be aptly described*],
and all the right, title, and interest of the said *A. B.* in and
to the same and every part thereof unto and to be holden by the
said *C. D.*, his heirs and assigns. In witness whereof the said
A. B. and *C. D.* have hereunto set their hands and seals.

Witness *E. F.*

A. B. (L. s.)

C. D. (L. s.)

(SEAL.)

Approved and registered the
day of

Form of Exchange.

This deed, made the day of by virtue of an Act
passed in the fifth and sixth years of the reign of King William
the Fourth, intituled [*the title of the Act*], and under the direc-
tion [*or with the approbation*] of the poor law commissioners
for England and Wales, testified by their seal being hereunto
affixed, witnesseth, that *A. B.* of doth grant and convey
unto *C. D.* of all [*the property to be aptly described*], in
exchange for the hereditaments hereinafter conveyed, to the in-
tent that the said hereditaments above conveyed may be
held and enjoyed by the said *C. D.*, and the person or
persons who for the time being would have been entitled
to the hereditaments hereinafter conveyed, if this present
exchange had not been made, and shall be and become sub-
ject to such and the same uses, trusts, powers, conditions,
limitations, restrictions, charges, and incumbrances as the
same hereditaments hereinafter conveyed now are or may or
but for this present exchange would have been subject or liable
to: And this deed further witnesseth, that, in pursuance of
the said Act, and under the said direction [*or approbation*],

(a) See 4 & 5 Will. 4, c. 76, s. 103, s. 21; 13 Vict. c. 21, s. 4; 29
109; 5 & 6 Vict. c. 57, s. 18; 7 & 8 & 30 Vict. c. 113, s. 18; 30 Vict.
Vict. c. 101, s. 74; 12 & 13 Vict. c. c. 6, s. 2.

the said *C. D.* doth grant and convey unto the said *A. B.* all [*the property to be aptly described*], in lieu of and in exchange for the hereditaments firstly hereinbefore conveyed, to the intent that the hereditaments lastly hereinbefore conveyed may be held and enjoyed by the said *A. B.*, and the person or persons who for the time being would have been entitled to the hereditaments firstly hereinbefore conveyed if this present exchange had not been made, and shall be and become subject to such and the same uses, trusts, powers, conditions, limitations, restrictions, charges, and incumbrances as the same hereditaments now or may be or but for this present exchange would have been subject or liable to. In witness whereof the said *A. B.* and *C. D.* have hereunto set their hands and seals.

Witness *E. F.*

A. B. (L. s.)

C. D. (L. s.)

(SEAL.)

Approved and registered the
day of

Form of Security (b).

This deed, made the day of by virtue of an Act passed in the fifth and sixth years of the reign of King William the Fourth, intituled [*the title of this Act*], and under the direction [*or with the approbation*] of the poor law commissioners for England and Wales (testified by their seal being hereunto affixed), witnesseth, that *A. B.*, *C. D.*, *E. F.*, and *G. H.*, being the majority of the guardians of the poor for the union [*or the parish of*], in consideration of the sum of to them in hand paid by *Y. Z.* of for the purpose of purchasing, building, erecting, repairing, fitting up, or furnishing a workhouse for the union [*or parish*], and for providing suitable stock and utensils for that purpose [*or in consideration of the conveyance or assurance of, &c., as the case may be*], do hereby charge the poor rates of the parishes of the said union [*or parish*] with the payment of the principal sum of pounds, by the instalments following [*naming them*], together with interest on the principal which shall from time to time remain due, after the rate of per centum, to be payable half-yearly to the said *Y. Z.*, his executors, administrators, and assigns.

Witness *L. M.*

A. B.

C. D.

E. F.

G. H.

(SEAL.)

Approved and registered the
day of

Form of Transfer of Security.

This deed, made the day of by virtue of the Act passed in the fifth and sixth years of the reign of King William the Fourth, intituled [*the title of this Act*], and [*if the guardians or overseers of any parish or union are the parties transferring or accepting the security, then add*] under the direction [*or with the approbation*] of the poor law commissioners for England and Wales (testified by their seal being hereunto affixed, witnesseth, that Y. Z. of doth transfer the security [*describing it*], with all right and title to the principal money thereby secured, and to all the interest now due or hereafter to be due thereon, unto V. W. of his executors, administrators, and assigns.

Witness E. F.	Y. Z.
	V. W.
(SEAL.)	Approved and registered the
	day of

5 & 6 WILL. IV. CHAP. 76.

AN ACT to provide for the Regulation of Municipal Corporations in England and Wales.
[9th September, 1835.]

* * * * *

Occupiers may claim to be rated. XI. In every borough it shall be lawful for any person occupying any house, warehouse, counting-house, or shop to claim to be rated to the relief of the poor in respect of such premises, whether the landlord shall or shall not be liable to be rated to the relief of the poor in respect thereof; and upon such occupier so claiming, and actually paying or tendering the full amount of the last made rate then payable in respect of such premises, the overseers of the parish in which such premises are situate are hereby required to put the name of such occupier upon the rate for the time being (a); and in case such overseer shall neglect or refuse so to do such occupier shall nevertheless for the purposes of this Act be deemed to have been rated to the relief of the poor in respect of such premises from the period at which the rate shall have been made in respect of which he shall have so claimed to be rated as aforesaid: Provided always, that where by virtue of any Act of parliament the landlord shall be liable to the payment of the rate for the relief of the poor in respect of any premises

(a) See 16 & 17 Vict. c. 79, s. 14.

occupied by his tenant, nothing herein contained shall be deemed to vary or discharge the liability of such landlord, but in case the tenant who shall have been rated for such premises in consequence of any such claim as aforesaid shall make default in the payment of the poor's rate payable in respect thereof, such landlord shall be and remain liable for the payment thereof in the same manner as if he alone had been rated in respect of the premises so occupied by his tenant (b).

* * * * *

XV. On the fifth day of September in every year the overseers of the poor of every parish wholly or in part within any borough shall make out an alphabetical list, to be called "The Burgess List," according to the form Number 1, in the Schedule (D.) to this Act annexed, of all persons who shall be entitled to be enrolled in the burgess roll of that year, according to the provisions of this Act, in respect of property within such parish; and the overseers shall sign such burgess lists, and shall deliver the same to the town clerk of the borough on the said fifth day of September in every year, and shall keep a true copy of such lists, to be perused by any person, without payment of any fee, at all reasonable hours between the fifth and fifteenth days of September in every year; and the town clerk shall forthwith cause copies to be printed of all overseers' lists delivered to him, and shall deliver a copy of all such lists to any person requiring the same on payment of a reasonable price for each copy, and shall cause a copy of all such lists to be fixed on or near the outer door of the town hall, or in some public and conspicuous situation within the borough, on every day during the week next preceding the fifteenth day of September in every year (c).

Overseers to make lists of all persons entitled to be burgesses in their respective parishes.

XVI. Provided always, that in any borough in which there shall be no town clerk, or in which the town clerk shall be dead or incapable of acting, all matters by this Act required to be done by and with regard to the town clerk shall be done by and with regard to the person executing duties in such borough similar to those of town clerk, and if there be no such person, or if such person shall be dead or incapable of acting, then by and with regard to such fit person as the mayor of such borough shall appoint in that behalf: Provided always, that every precinct or place, whether extra-parochial or otherwise, which shall have no overseers, shall, for the purpose of making out such lists as aforesaid, be deemed within the parish adjoining thereto, such parish being wholly or in part situate within the same borough as such precinct or place, and if such precinct or place shall adjoin two or more parishes so situate as aforesaid, it shall be deemed to be within the least populous of such parishes according to the last census for the time

As to boroughs in which there is no town clerk.

As to precincts, &c. where there are no overseers.

(b) See 32 & 33 Vict. c. 41, ss. 4, 7, 115, 19; and 32 & 33 Vict. c. 55, s. 1.

(c) See 32 & 33 Vict. c. 55, s. 3.

being ; and the overseers of the poor of every such parish shall insert in the list for their parish the names of all persons who would have been entitled to be inserted in the lists for such precinct or place if such precinct or place had had overseers or been rated to the maintenance of the poor.

* * * * *

Expences of
overseers how
to be defrayed.

XXIV. The said council of every borough shall take an account of the reasonable expences incurred by the overseers of the poor in carrying into effect the several provisions of this Act, so far as relates to the said lists, and shall order the treasurer of the said borough to pay the same out of the borough fund of the said borough.

* * * * *

Power to
examine rate
book.

XLII. The said barrister or barristers shall have power to require any overseer, or person having the custody of any book containing any rate made for the relief of the poor, in any parish wholly or in part within any borough to be divided into wards, to produce such book before and allow the same to be inspected by the said barrister or barristers ; and the said barrister or barristers shall have power to administer an oath to the overseers and to all other persons, who are hereby required to answer upon oath all such questions as the said barrister or barristers may put to them, or any of them touching any matter which the said barrister or barristers may deem necessary for enabling them to execute the duties by this Act imposed upon them.

* * * * *

Sessions of the
peace to be
held for the
borough, of
which the
recorder to be
the sole judge.

CV. The recorder of every borough shall hold once in every quarter of a year, or at such other and more frequent times as the said recorder in his discretion may think fit, or as His Majesty shall think fit to direct, a court of quarter sessions of the peace in and for such borough, of which court the recorder of such borough shall sit as the sole judge ; and such court of quarter sessions of the peace shall be a court of record, and shall have cognizance of all crimes, offences, and matters whatsoever cognizable by any court of quarter sessions of the peace for counties in England, and the said recorder shall have power to do all things necessary for exercising such jurisdiction, notwithstanding his being such sole judge, as fully as any such last-mentioned court : Provided nevertheless, that no recorder, by virtue of his office, shall have power to make or levy any county rate, or rate in the nature of a county rate (a).

* * * * *

Recorder not
to make or
levy county
rate, &c.

Treasurers of
counties to
keep an ac-
count of ex-
pences of

CXIV. The treasurer of every county in England and Wales shall keep an account of all costs arising out of the prosecution, maintenance, and punishment, conveyance and transport of all offenders committed for trial to the assizes in such county from

(a) See 43 Eliz. c. 2, s. 7 ; 17 Geo. 4 & 1 Vict. c. 81 ; 2 & 3 Vict. c. 28 ; 2, c. 38, s. 8 ; 1 Geo. 4, c. 36 ; 3 & 4 Vict. c. 28. 7 Will. 4 & 1 Vict. c. 78 ; 7 Will.

any borough in which a separate court of quarter sessions of the peace shall be holden; and the treasurer of every such county shall, not more than twice in every year, send a copy of the said account to the council of each of the said boroughs, and shall make an order for payment of the same on the council of such borough; and the council of every such borough shall forthwith order the same, with all reasonable charges of making and sending such account, to be paid to the treasurer of such county out of the borough fund; and in case any difference shall arise concerning the said account, it shall be decided by the arbitration of a barrister to be named as is provided in the case of differences with respect to the payment of monies under contracts made by authority of an Act made in the fifth year of His late Majesty King George the Fourth, intituled "An Act for amending an Act of the last Session of Parliament, relating to the building, repairing, and enlarging of certain Gaols and Houses of Correction, and for procuring Information as to the state of all other Gaols and Houses of Correction in England and Wales:" Provided that nothing herein contained shall be construed to alter or restrain the powers given by the last-mentioned Act of contracting with the justices of the peace having authority or jurisdiction in and over any gaol or house of correction of the county wherein or where such borough is situated, or whereto it is adjacent, for the conveyance, support, and maintenance in such last-mentioned gaol or house of correction of prisoners committed thereto from such borough, save only that all such powers shall after the first day of May one thousand eight hundred and thirty-six be vested in the council of such borough in the name of the body corporate whose council they are, and in none other; and for the purpose of making such contracts as aforesaid the council of such borough, and none other, shall have power to make the orders required by the said last-mentioned Act to be made by the justices of the borough at the borough sessions (b).

prosecution
of offenders,
&c.

In case of
difference re-
specting such
account the
same to be
referred to
arbitration, as
provided in
5 Geo. IV.
c. 85.

* * * * *

CXVII. The treasurer of every county in England and Wales shall keep an account of all sums of money received in aid or on account of the county rate, and of the sum of money expended out of the county rate for other purposes than the costs arising out of the prosecution, maintenance and punishment, conveyance and transport of offenders committed for trial in such county, and in the case of boroughs having a separate court or quarter sessions of the peace other than out of coroners' inquests, and shall, not more than twice in every year, send a copy of the said account to the council of every borough situate within such county in which a separate court of quarter sessions of the peace shall be holden, and which before the passing of the said Act, intituled "An Act to settle and describe the Divisions of Counties and the Limits of Cities and Boroughs in England and

Boroughs to
pay a pro-
portion of the
other county
expenditure.

2 & 3 Will. IV
c. 64.

(b) See 15 & 16 Vict. c. 81, s. 38; and 18 & 19 Vict. c. 105, s. 14.

Wales, so far as respects the Election of Members to serve in Parliament," was chargeable with or liable to contribute in whole or in part to the county rate of such county, and shall make an order on the council of every such borough for the payment of such proportion of such sum as would have been chargeable, after deducting all sums of money received in aid of the county rate as aforesaid, if this Act had not passed, upon such borough as the same shall be bounded according to the provisions of this Act; and the council of such borough shall forthwith order the same, with all reasonable charges of making and sending the said account, to be paid to the treasurer of such county out of the borough fund: Provided that in case any difference shall arise concerning the last-mentioned account it shall be decided by the arbitration of a barrister to be named as is provided in the case of differences with respect to the payment of monies under contracts made by authority of the said Act made in the fifth year of His late Majesty King George the Fourth, intituled "An Act for amending an Act of the last Session of Parliament, relating to the building, repairing, and enlarging of certain Gaols and Houses of Correction, and for procuring Information as to the State of all other Gaols and Houses of Correction in England and Wales" (a).

5 Geo. IV.
c. 85.

* * * *

Interpretation
clause.

CXLII. In the construction of this Act the word "borough" shall be construed to mean city, borough, port, cinque port, or town corporate, named in one of the said schedules (A.) and (B.); and the words "body corporate" shall be construed to mean body corporate named in one of the said schedules (A.) and (B.); and the word "burgess" shall be construed to mean citizen in the case of a city; and the word "county" shall be construed to mean county, riding, parts, liberty, or division; and the word "trustees" shall be construed to mean trustees, commissioners, or directors, or the persons charged with the execution of a trust or public duty, by whatever name they are designated; and the word "parish" shall be construed to mean parish, township, vill, hamlet, chapelry, tithing, district, precinct, or place maintaining its own poor; and the words "overseers of the poor" shall be construed to mean all persons who execute the duties of overseers of the poor; and that in all things hereinbefore provided to be done, until the first election of councillors in any borough under this Act shall have been declared, the word "mayor" shall be construed to mean the chief officer of a borough, by whatever name he is now called; and in describing any person or thing, any word importing the singular number shall be construed to mean also several persons or things respectively, unless there be something in the subject or context repugnant to such construction; and that no misnomer or inaccurate description of any person, body corporate, or place named in any

(a) See 15 & 16 Vict. c. 81, s. 38; and 18 & 19 Vict. c. 105, s. 14.

schedule to this Act annexed, or in any roll, list, notice, or voting paper required by this Act, shall hinder the full operation of this Act with respect to such person, body corporate, or place, provided that the description of such person, body corporate, or place be such as to be commonly understood (*b*).

6 & 7 WILL. IV. CHAP. 12.

AN ACT for amending an Act of the Ninth Year of the Reign of His late Majesty King George the Fourth, intituled “An Act for the better Regulation of Divisions in the several Counties of England and Wales.”

[20th May, 1836.]

“WHEREAS by an Act passed in the ninth year of His late Majesty King George the Fourth, intituled ‘An Act for the better Regulation of Divisions in the several Counties of England and Wales,’ it is amongst other things enacted, that such divisions, when severally constituted in the manner directed by the said Act, shall be subject to no alteration or revision for the several terms of twenty-one and ten years respectively, and until further order of sessions after the expiration of such terms of twenty-one years and ten years respectively: And whereas it may be expedient that such divisions should have the same limits as unions of parishes formed under the Act of the fourth and fifth years of His present Majesty, intituled ‘An Act for the Amendment and better Administration of the Laws relating to the Poor in England and Wales;’ and for this and other reasons it may be expedient to alter such divisions within shorter periods of time than are now fixed by the herein recited Act:”

Be it therefore enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that it shall be lawful for the justices of the peace for any county, riding, or division having a separate commission of the peace, in any court of quarter sessions, to alter and revise such divisions in the manner and according to the forms required by the said herein recited Act on the expiration of three years from the constituting thereof, anything in such Act contained to the contrary notwithstanding (*c*).

Justices at quarter sessions may alter divisions after three years from the constituting thereof.

II. It shall be lawful for the justices as aforesaid at such quarter sessions to make any order constituting any new division, upon due proof before them made in open court on oath, that at the time of making the same there are at the least five justices

New divisions may be constituted if five justices are

(*b*) See 32 & 33 Vict. c. 55, s. 9.

(*c*) See 9 Geo. 4, c. 43; 10 Geo. 4, c. 46; and 22 & 23 Vict. c. 65.

resident or acting therein. of the peace residing or usually acting within the boundary line proposed to be the limit of any such new division, but not otherwise.

Forms, &c. to be similar to those in 9 Geo. IV. c. 43. III. All matters and things by the said herein recited Act required to be done by and with regard to the clerk of the peace shall be done by and with regard to that officer with respect to the new divisions to be formed by virtue of this Act.

Reservation of right of appeal. IV. Provided always, that every such order shall be made subject to such power of petitioning against the same as is given by the said herein recited Act with respect to any order made by virtue thereof.

Proceedings not to be quashed for want of form. V. No order to be made nor any proceedings to be had or taken in pursuance of this Act shall be quashed or vacated for want of form, or be removed by *certiorari*, or any other writ or process whatever, into any of His Majesty's courts of record at Westminster; any law or statute to the contrary notwithstanding.

Not to extend to Middlesex, Scotland, or Ireland. VI. Nothing in this Act contained shall extend or be construed or taken to extend [*to the county of Middlesex in England*] (a), or to Scotland or Ireland.

6 & 7 WILL. IV. CHAP. 71.

AN ACT for the Commutation of Tithes in England and Wales.
[13th August, 1836.]

* * * * *

Comptroller of corn returns to publish average price of corn. LVI. * * * In the month of January in every year, the comptroller of corn returns for the time being, or such other person as may, from time to time, be in that behalf authorised by the privy council, shall cause an advertisement to be inserted in the *London Gazette*, stating what has been, during seven years ending on the Thursday next before Christmas Day then next preceding, the average price of an imperial bushel of British wheat, barley, and oats, computed from the weekly averages of the corn returns.

Rent-charges to be valued according to the average price of corn. LVII. Every rent-charge charged upon any lands by any such intended apportionment shall be deemed at the time of the confirmation of such apportionment, as hereinafter provided, to be of the value of such number of imperial bushels and decimal parts of an imperial bushel of wheat, barley, and oats, as the same would have purchased at the prices so ascertained by the advertisement to be published immediately after the passing of this Act, in case one-third part of such rent-charge had been invested in the purchase of wheat, one-third part thereof in the purchase of barley, and the remaining third part thereof in the

(a) The exemption of the county by 14 & 15 Vict. c. 55, s. 17; see of Middlesex from this Act is repealed also 9 Geo. 4, c. 43, s. 13.

purchase of oats, and the respective quantities of wheat, barley, and oats so ascertained shall be stated in the draft of every apportionment.

* * * * *

LXIV. Two copies of every confirmed instrument of apportionment (*b*), and of every confirmed agreement for giving land instead of any tithes or rent-charge, shall be made and sealed with the seal of the said commissioners, and one such copy shall be deposited in the registry of the diocese within which the parish is situated, to be there kept among the records of the registry, and the other copy shall be deposited with the incumbent and church or chapel wardens of the parish for the time being, or such other fit persons as the commissioners shall approve, to be kept by them and their successors in office with the public books, writings, and papers of the parish, and all persons interested therein may have access to and be furnished with copies of or extracts from any such copy on giving reasonable notice to the person having custody of the same, and on payment of two shillings and sixpence for such inspection, and after the rate of three-pence for every seventy-two words contained in such copy, or extract (*c*); and every recital or statement in or † map or plan annexed to such confirmed apportionment or agreement for giving land, or any sealed copy thereof, shall be deemed satisfactory evidence of the matters therein recited or stated, or of the accuracy of such plan.

Transcripts of the award to be sent to the registrar of the diocese and to the incumbent and church-wardens.

† (*Sic*.)

* * * * *

LXIX. Every rent-charge payable as aforesaid instead of tithes, shall be subject to all parliamentary, parochial and county and other rates, charges, and assessments, in like manner as the tithes commuted for such rent-charge have heretofore been subject (*d*).

LXX. All rates and charges to which any such rent-charge is liable shall be assessed upon the occupier of the lands out of which such rent-charge shall issue, and in case the same shall not be sooner paid by the owner of the rent-charge for the time being may be recovered from such occupier in like manner as any poor rate assessed on him in respect of such lands; and any occupier holding such lands under any landlord and who shall have paid any such rate or charge in respect of any such rent-charge, shall be entitled to deduct the amount thereof from the rent next payable by him to his landlord for the time being, and shall be allowed the same in account with his landlord; and any landlord or owner in possession who shall have paid any such rate or charge, or from whose rent the amount of any such rate or charge in respect of any such rent-charge, shall have been so deducted, or who shall have allowed the same

Rent-charge to be liable to rates, &c.

How rates and charges are to be recovered.

(*b*) See 5 & 6 Vict. c. 54, s. 13. c. 15, s. 8; 5 & 6 Vict. c. 54, s. 13;

(*c*) See 1 Vict. c. 69, ss. 2, 3; 2 & 3 8 & 9 Vict. c. 118, s. 39.

Vict. c. 62, ss. 34, 35; 3 & 4 Vict. (*d*) 6 & 7 Will. 4, c. 96, s. 1.

in account with any tenant paying the same, shall be entitled to deduct the amount thereof from the rent-charge, or by all other lawful ways and means to recover the same from the owner of the rent-charge, his executors and administrators ; provided that the owner of every such rent-charge shall have and be entitled to the like right of demanding, inspecting, and taking copies of every assessment contained in such rent or charge, and of appeal against the same, and the like power of prosecuting such appeal and the like remedies in respect thereof, as any occupier or rate-payer has or may have in the case of poor rates, although such rate or charge is herein made assessable upon the occupier, and the owner of the rent-charge is not mentioned by name in such assessment(a).

* * * * *

Act not to extend to Easter offerings, &c., or to payments instead of tithes in London, &c.

XC. Nothing in this Act contained, unless by special provision to be inserted in some parochial agreement and specially approved by the commissioners, in which case the same shall be valid, shall extend to any Easter offerings, mortuaries, or surplice fees, or to the tithes of fish or of fishing, or to any personal tithes other than the tithes of mills or any mineral tithes, or to any payment instead of tithes arising or growing due within the city of London, or to any permanent rent-charge or other rent or payment in lieu of tithes, calculated according to any rate or proportion in the pound on the rent or value of any houses or lands in any city or town under any custom or private Act of parliament, or to any lands or tenements the tithes whereof shall have been already perpetually commuted or extinguished under any Act of parliament heretofore made.

* * * * *

6 & 7 WILL. IV. CHAP. 86.

AN ACT for registering Births, Deaths, and Marriages in England (b). [17th August, 1836.]

* * * * *

Districts to be formed, and registrars and superintendent registrars to be appointed.
4 & 5 Will. IV. c. 76.

VII. The guardians of every union declared under the provisions of an Act passed in the fifth and sixth years of His present Majesty, intituled "An Act for the Amendment and better Administration of the Laws relating to the Poor in England and Wales," and also of every parish or place in which a board of guardians shall have been established under the provisions of the last-named Act, shall, on or before the first day of October in this year, if the said board of guardians shall have been established before the passing of this Act,

(a) See 12 & 13 Vict. c 14.

(b) See 34 & 35 Vict. c. 70, and

Glen's Law relating to the Registration of Births, Deaths, and Marriages.

or within three calendar months next after the establishment of the board, if the said board shall not have been established before the passing of this Act, divide the union or the parish or place (c) of which they are the guardians into such and so many districts (d) as they, subject to the approval of the registrar general, shall think fit; and every such division when made shall be published by the guardians within the union, parish, or place of which they are guardians, in such manner as the said registrar general shall direct; and every such district shall be called by a distinct name, and shall be a registrar's district; and the guardian shall appoint a person with such qualifications as the registrar general may by any general rule declare to be necessary, to be registrar of births and deaths within each district, and in every case of vacancy in the office of registrar shall forthwith fill up the vacancy; and the clerk to the guardians of every such union, parish, or place shall, if he shall think fit to accept such office, and have such qualifications as the registrar general may by any general rule declare to be necessary, be the superintendant registrar thereof; and in the event of his refusal or disqualification to act in that capacity, the guardians shall appoint a person, with such qualifications as the registrar general may by any general rule declare to be necessary, to be the superintendent registrar of each union, or of such parish or place (e), and in every case of vacancy of the office of superintendent registrar shall forthwith fill up the vacancy; and every registrar and superintendent registrar shall hold his office during the pleasure of the registrar general (f).

VIII. Provided always, that in every case in which the clerk to the guardians of any union, parish, or place, or any other officer of any such union, parish or place, shall hold any office under this Act, and shall be removed by the poor law commissioners from his office in such union, parish, or place, and in every case in which any registrar or superintendent registrar shall be removed by the registrar general from his office under this Act, notice of such removal shall be forthwith given by advertisement in some newspaper circulating in the county wherein the district for which such officer may act shall be; and every such person shall thenceforth cease to hold his

Officers of unions, &c. being dismissed by guardians, &c. to cease to act under this Act.

(c) See 1 Vict. c. 22, s. 9.

(e) See 1 Vict. c. 22, s. 14.

(d) See 1 Vict. c. 22, ss. 10, 11, 13.

(f) See 1 Vict. c. 22, ss. 16, 17.

RIGHT TO OFFICE OF SUPERINTENDENT REGISTRAR.

Quære, whether a vacancy in the office of clerk to the board of guardians causes a vacancy in that of superintendent registrar; and whether the clerk *de facto* of a union has always a right to be superintendent registrar thereof? *Ex parte Passman*. In re *Edward Draper*, 24 J. P. (n.) 389.

The clerk to the guardians of the poor was absolutely entitled to the first appointment to the office of superintendent registrar of births, deaths, and marriages; but on every vacancy thereafter the guardians have been and are entitled to appoint any other person who is properly qualified: *Reg. v. Accason*, 6 L. T. (n.s.) 535; 26 J. P. 436; 8 Jur. (n.s.) 841.

Decisions on sect. 7.

office under this Act, and shall be incapable of being reappointed thereto: Provided also, that the appointment of any officer of any such union, parish, or place, to any office under this Act shall be subject to the approval of the poor law commissioners, except as hereinbefore directed with respect to the clerk to guardians of any such union, parish, or place.

Register officers to be provided in each union.

IX. The guardians shall provide and uphold, out of the monies coming to their hands or control as such guardians, a register office (*a*) according to a plan to be approved by the registrar general, for preserving the registers to be deposited therein, as hereinafter provided; and the care of the said office and custody of the registers deposited therein shall be given to the superintendent registrar of the union or parish or place having a board of guardians as aforesaid.

Temporary registrars and superintendent registrars to be appointed for parishes not under the Poor Law Act.

X. The poor law commissioners for England and Wales shall, as soon as may be after the said first day of October, form all the parishes, townships, and places in England, in or for which a board of guardians shall not have been then established under the provisions of the said Act for the Amendment of the Laws relating to the Poor, into temporary districts, having regard in the formation thereof to the boundaries of parishes and townships, and shall appoint a registrar to each of such temporary districts (*b*), subject to being displaced as hereinafter provided; and the registrar general shall appoint a sufficient number of fit persons to be superintendent registrars for such temporary districts, subject to being displaced as hereinafter provided, and shall appoint the districts which each shall superintend.

In case of subsequent unions previous appointments to be vacated.

XI. In every case in which a board of guardians shall be established, under the provisions of the said Act for the Amendment of the Laws relating to the Poor, in or for any parish, township, or place forming part of any temporary district in or for which a registrar or superintendent registrar shall have been previously appointed as last aforesaid, and as soon as a registrar or registrars shall have been appointed for the districts into which the guardians shall have divided the union or parish or place of which they are guardians as aforesaid, and the clerk of the guardians of such union, parish, or place shall have accepted the office of superintendent registrar, or the said guardians shall have appointed a superintendent registrar for such districts, in like manner as in the unions formed before the passing of this Act, every such parish or place shall cease to be a part of the temporary district to which it was so annexed by the poor law commissioners, and every registrar, deputy registrar, and superintendent registrar appointed before the election of such board of guardians as aforesaid in or for such parish, township, or place shall cease to hold their respective offices, so far as relates to such parish, township, or place, unless re-appointed.

(*a*) See 1 Vict. c. 22, ss. 12, 19, (*b*) See 31 & 32 Vict. c. 122, ss. 5, 26.

XII. For every district for which a registrar of births and deaths shall be appointed by the guardians as aforesaid the registrar shall have power, subject to the approval of such guardians * * * to appoint by writing under his hand a fit person to act as his deputy in case of the illness or unavoidable absence of such registrar; and every such deputy registrar while so acting shall have all the powers and duties and be subject to all the provisions and penalties herein declared concerning registrars, and in case of the death of the registrar shall act as registrar until another registrar is appointed; and every registrar shall be civilly responsible for the acts or omissions of his deputy (c).

Deputy registrars to be appointed.

XIII. The appointments of registrars, deputy registrars, and superintendent registrars, and the duplicates and certified copies of registers hereinafter mentioned, shall be exempt from all stamp duties.

Appointments exempt from stamp duties.

* * * * *

XVI. Every registrar and deputy registrar shall dwell within the district of which he is registrar or deputy registrar, and shall cause his name, with the addition of registrar or deputy registrar (as the case may be) for the district for which he shall be so appointed to be placed in some conspicuous place on or near the outer door of his own dwelling house; and the superintendent registrar shall cause to be printed and published in the districts which he shall superintend a list of the name and place of abode of every registrar and deputy registrar under his superintendence.

Registrar and deputy to dwell in the district, and their names and additions to be put on their houses.

* * * * *

XVIII. The registrar general shall furnish to every superintendent registrar, for the use of the registrars under his superintendence, a sufficient number of register books of births and of register books of deaths, and of forms for certified copies thereof, as hereinafter provided, at a reasonable price, to be fixed from time to time by one of His Majesty's principal secretaries of state, the cost whereof shall be borne by the union, parish, or place in or for which the superintendent registrar is appointed, and shall be paid by the guardians or by the churchwardens and overseers (as the case may be), out of the monies coming to their hands or control as such guardians or churchwardens and overseers, to the registrar, and shall be accounted for by him to the registrar general (d). * * *

Registrars to register births and deaths.

(c) See 31 & 32 Vict. c. 122, ss. 5, 26.

(d) See 6 & 7 Will. 4, c. 86, ss. 5, 23; and 1 Vict. c. 22, s. 25; and 21 & 22 Vict. c. 25, s. 6.

EVIDENCE OF BIRTH.

An entry in the register of births made pursuant to 6 & 7 Will. 4, c. 86. *Decision on* is evidence of the fact of the birth prior to the date of entry, but not of *sect. 18.* the birth having occurred on the day named: In re *Wintle*, 34 J. P. 372.

Parents or occupiers of houses in which births or deaths happen, and overseers and coroners in cases of foundlings or exposed dead bodies, to give notice to the registrar.

XIX. The father or mother of any child born, or the occupier of every house or tenement in England in which any birth or death shall happen, after the said first day of March, may within forty-two days next after the day of such birth or within five days after the day of such death respectively, give notice of such birth or death to the registrar of the district; and in case any new-born child or any dead body shall be found exposed, the overseers of the poor in the case of the new born child, and the coroner in the case of the dead body, shall forthwith give notice and information thereof, and of the place where such child or dead body was found, to the registrar; and for the purposes of this Act the master or keeper of every gaol, prison, or house of correction, or workhouse, hospital, or lunatic asylum, or public or charitable institution, shall be deemed the occupier thereof.

* * * * *

Registrars to make out accounts quarterly.

XXIX. Every registrar shall make out an account four times in every year of the number of births and deaths which he shall have registered since the last quarterly account, and the superintendent registrar shall verify and sign the same: and the guardians or overseers of the parish, township, or place in or for which he shall be registrar, on production of the said account so verified and signed, shall pay to the said registrar, out of the said monies in their hands or power as such guardians or overseers, such sums as he shall be entitled to receive on the said account according to the following scale; (that is to say), for the first twenty entries of births and deaths in every year which he shall have registered, whether the same be of births or of deaths indiscriminately, two shillings and sixpence each, and one shilling for every subsequent entry of births or deaths in each year; and in the case of an union the said several sums shall be charged to the account of the parishes in which such births or deaths respectively shall have occurred.

Guardians or overseers to pay registrars.

Marriage register books to be provided.

XXX. The registrar general shall furnish or cause to be furnished to the rector, vicar, or curate, of every church and chapel in England wherein marriages may lawfully be solemnized, and also to every person whom the recording clerk of the Society of Friends commonly called Quakers, at their central office in London, shall from time to time certify in writing under his hand to the registrar general to be a registering officer in England of the said society, and also to every person whom the president for the time being of the London Committee of Deputies of the British Jews shall from time to time certify in writing under his hand to the registrar general to be the secretary of a synagogue in England of persons professing the Jewish religion, a sufficient number in duplicate of marriage register books, and forms for certified copies thereof, as hereinafter provided; and the cost of all such books and forms shall be paid by the churchwardens and overseers of the parish or chapelry out of the monies in their hands as such

churchwardens and overseers, or by the registering officer or secretary respectively to whom the same shall be furnished (a).

* * * * *

XLIX. Provided always, that nothing herein contained shall affect the registration of baptisms or burials as now by law established, or the right of any officiating minister to receive the fees now usually paid for the performance or registration of any baptism, burial, or marriage.

Registers of baptisms and burials may be kept as heretofore.

L. The said registrar general shall, within three calendar months after his appointment to such office, furnish to the respective guardians of every union, parish, or place, printed notices, which the said guardians shall, as soon as conveniently may be after the receipt thereof, cause to be fixed or placed on the outside of the several church and chapel doors, or other public and conspicuous buildings or places, within their respective unions, parishes, or places, and which said notices shall specify the several acts required to be done by persons who may be desirous of solemnizing marriage, or of registering the birth of any child or the death of any person, under the provisions of this Act.

Registrar-general to furnish notices to guardians of unions, &c. specifying acts required to be done by parties registering.

6 & 7 WILL. IV. CHAP. 96.

[19th August, 1836.]

AN ACT to regulate Parochial Assessments (b).

“WHEREAS it is desirable to establish one uniform mode of rating for the relief of the poor throughout England and Wales, and to lessen the cost of appeal against an unfair rate: Be it enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after such period, not being earlier than the twenty-first day of March next after the passing of this Act, as the poor law commissioners shall by any order under their seal of office direct, no rate (c), for the relief of the poor in England and Wales shall be allowed by any justices, or be of any force, which shall not be made upon an estimate of the net annual value of the several hereditaments rated thereunto; that is to say, of the rent at which the same might reasonably be expected to let from year to year, free of all usual tenant’s rates and taxes, and tithe commutation rent-charge, if any, and deducting therefrom the probable average annual cost of the repairs, insurance, and other expenses, if any, necessary to maintain them in a state to command such rent (d); provided always, that nothing herein contained shall be con-

All rates to be made on the net annual value of the property.

Proviso.

(a) See 1 Vict. c. 22, s. 25; and 21 & 22 Vict. c. 25, s. 6.

(b) See 5 & 6 Vict. c. 57, s. 18.

(c) See 43 Eliz. c. 2, s. 1.

(d) See 3 & 4 Vict. c. 89; and as regards the metropolis, 32 & 33 Vict. c. 67, s. 52, and Sch. 3.

strued to alter or affect the principles or different relative liabilities (if any) according to which different kinds of hereditaments are now by law rateable (a).

(a) See 17 Geo. 2, c. 37; 41 Geo. 3, 16 & 17 Vict. c. 97, s. 35; and as to c. 23; 9 Geo. 4, c. 40, s. 29; 3 & 4 the metropolis, 32 & 33 Vict. c. 67, Will. 4, c. 30; 4 & 5 Vict. c. 48; s. 77, and Sch. 5.

EXTENT OF ACT.

*Decisions on
sect. 1.*

The 6 & 7 Will. 4, c. 96, does not operate as a repeal of 43 Eliz. c. 2, so as to exempt stock in trade from liability to be rated to the relief of the poor: *Reg. v. Lumsdaine*, 8 L. J. M. C. 69; 10 A. & E. 157.

ANNUAL VALUE.

The annual profit is the rent which the tenant would give, he paying the poor rates and the expenses of repairs, and the other annual expenses necessary for making the subject of occupation productive, and allowing him a deduction from the rent, where the subject is of a perishable nature, towards the expense of renewing or reproducing it: *Rex v. Lower Milton*, 9 B. & C. 810.

Lands are rateable to the relief of the poor in proportion to the rent which a tenant at rack rent would pay, he discharging all rates, charges, and outgoings; and therefore an occupier of land which requires to be protected from floods, at an occasional expense defrayed by a sewers rate, was held not rateable at the same sum as the occupier of land of similar quality and equal annual produce, in the same parish, not liable to the sewers rate; but he should be rated at that sum *minus* the sewers rate: *Rex v. Adames*, 4 B. & Ad. 61; 1 N. & M. 662.

Per Lord Campbell, C.J., though the rent is good evidence of the rateable value, under 6 & 7 Will. 4, c. 96, s. 1, it is not conclusive: it is open to the parties to show by evidence that it did not fairly represent the annual value: *Reg. v. Eastern Counties Railway Company*, 18 Jur. 680.

Under 2 Will. 4, c. 45, s. 27, *per* Erle, J., the test of the "clear yearly value" is what the tenement would fairly let for, deducting therefrom what a tenant would fairly have to pay (for rates), just as in settlement cases. "Clear yearly value of not less than 10*l.*" is the "clear yearly value to the tenant of 10*l.*"; and "the fair annual rent," without deducting therefrom either the landlord's insurance or the landlord's repairs, is the proper criterion of the "clear yearly value": *Coog v. Luckett*, 15 L. J. C. P. 159.

On appeal by the Cemetery Company against a poor rate on one of their cemeteries, it was held that they were not entitled to deduct from the rateable value under the Parochial Assessment Act, 6 & 7 Will. 4, c. 96, s. 1, the salaries of the directors and auditors, and the expenses of an office, in London, at which the directors transacted the company's business: *Reg. v. St. Giles, Camberwell*, 14 Q. B. 571.

The value of the property at the time of the assessment is the correct basis upon which the assessment is to be laid: *Reg. v. London, Brighton and South Coast Railway Company*, 15 Q. B. 313.

By a local Act, "twelve inhabitant householders, resident in the town or parish of Rye, rated to the relief or maintenance of the poor of the said parish, by one or more rate or rates to the amount of 10*l.* per annum," shall be appointed commissioners of the harbour of Rye; and it was held that the rateable annual value, and not the rates payable, conferred the qualification: *Easton v. Alce*, 7 H. & N. 452.

Held (Erle, J., differing), first, that a sum of 150*l.* paid for the goodwill

ANNUAL VALUE—continued.

of certain public-houses was to be taken into account in estimating the rateable value of the occupation of the brewery and premises; second, that the occupier was not entitled to claim a deduction equal in amount, as an outgoing necessary to the obtaining by the brewery of the profit derived from the trade of the public-houses: *Allison v. Monkwearmouth*, 23. L. J. M. C. 177. *Decisions on sect. 1.*

Under 5 & 6 Will. 4, c. 76, s. 28, the annual value is the real net value, after deducting outgoings, on which the rate is assessed: *Baker v. Marsh*, 4 E. & B. 145.]

Where three parishes were enclosed by a local Act which directed commissioners to set out certain portions of land in those parishes in full bar, satisfaction and compensation of and for all tithes, both great and small, and all compositions and payments in lieu of tithes within such parishes (Easter offerings, surplice fees, and mortuaries only excepted), and of the lands so set out, the commissioners were directed to allot 30 acres to the vicar, and the remainder to the rector, the latter being subject to the payment of a "corn rent" to the vicar, which corn rent was directed to be paid to the vicar "clear of all parochial taxes, rates, dues, and assessments whatsoever," and it was enacted that the tithes, in lieu whereof the 30 acres of land were directed to be allotted and the corn rent was to be paid, should cease and be for ever extinguished, it was held that the occupiers of the lands charged with the payment of the corn rent were not entitled to have the amount of such corn rent deducted in estimating the net annual value of their property liable to the poor rate, under 25 & 26 Vict. c. 103, s. 15, and 6 & 7 Will. 4, c. 96, s. 1: *Hackett v. Long Bennington*, 33 L. J. M. C. 137; 16 C. B. (N. S.) 38; 9 L. T. (N. S.) 769.

The rent referred to in 6 & 7 Will. 4, c. 96, s. 1, must be considered to be the rent which a tenant would be expected to give from year to year for premises in their existing condition, and according to their actual capacity to be used beneficially, and not the rent which a person would pay if the property were let for a reasonable term of years, and with a prospect of their increased value during the term; therefore, where a cotton mill, furnished with the necessary machinery, had yielded a large return and had been assessed at an annual value of 260*l.*, and the business during the American civil war had declined, and the owners, having determined to cease to work the mill, dismissed all their workmen with the exception of the fireman, who they continued to employ to attend to the machinery and keep it in fit order to be used on the return of more favourable times, it was held that the mill, though rateable, was only to be assessed on its then value as a warehouse for machinery: *Reg. v. Castleton*, 10 L. T. (N. S.) 605; *S. C. Staley v. Castleton*, 33 L. J. M. C. 178; 10 Jur. (N. S.) 1147; 5 B. & S. 505.

In assessing premises under 6 & 7 Will. 4, c. 96, s. 1, and 25 & 26 Vict. c. 103, s. 15, the overseers should proceed on an estimate, not of the rent actually paid for the premises by the occupier, but of the rent at which they might reasonably be expected to let from year to year. Therefore, where three farms were let at a certain sum annually, but might reasonably have been expected to let, and might have let, at a higher sum, the overseers were wrong in assessing the occupiers at the rent actually paid by them: *Haywood v. Brinkworth*, 10 L. T. (N. S.) 608. But in *Rex v. Chaplin*, 1 B. & Ad. 926, the Court laid down that, *prima facie*, the rent actually paid is the best criterion of value.

In assessing land to the poor rate, deductions are to be allowed in respect of general sewers rate and the annual tax imposed by the commissioners of sewers under 4 & 5 Vict. c. 45, for maintenance and cleansing of the sewers and works within the district, as well as for the annual average cost of the maintenance of a sluice and flood gate, by which the land is benefited, and

Rates to be
made in a
given form.

II. Every such rate made after the said period shall, in addition to any other particular which the form of making out such rate shall require to be set forth (a), contain an account of every particular set forth at the head of the respective columns in the form given in the schedule to this Act annexed, so far as the same can be ascertained (b); and the churchwardens and overseers, and other officers whose duty it may be to make and levy the said rate, or such a number of the said churchwardens and overseers or other officers as are competent to the making and levying of the same, shall, before the rate is allowed by the justices, sign the declaration given at the foot of the said form (a); and otherwise the said rate shall be of no force or validity: Provided always, that nothing herein contained shall be construed to prevent the owners of tenements from

Nothing
herein
to prevent

(a) See 43 Eliz. c. 2, s. 1.

(b) See 32 & 33 Vict. c. 67, s. 73; and Sch. 4, as to the metropolis.

ANNUAL VALUE—continued.

Decisions on
sect. 1.

of the maintenance of a sea wall which the owner of the land is bound to keep up under a due presentment under the commission of sewers: *Reg. v. Halldare*, 34 L. J. M. C. 17; 11 Jur. (N. s.) 59; S. C. *Reg. v. Dare*, 11 L. T. (N. s.) 301.

The owner of a brewery was possessed of several public-houses, some in the same parish as the brewery and some not. The tenants of the public-houses paid a rent less than the value of the houses, but contracted with the owner of the brewery to take all their malt liquors from the brewery. The court held (Byles, J., dissentient) that the rateable value of the brewery or of the public-houses was not affected by these contracts: *Sunderland-near-the-Sea v. Sunderland Union*, 11 Jur. (N. s.) 688; 34 L. J. M. C. 121; 18 C. B. (N. s.) 531; 13 L. T. (N. s.) 239.

Water was supplied to houses by certain town commissioners at certain water rents. It was matter of arrangement whether the water was supplied to the owners or to the tenants of the houses, and it was also entirely optional with the owners or occupiers to refuse to be supplied with water by the commissioners. It was held that the sum paid for water rent, even though by the owner, was not an item of deduction in estimating the net annual value under the 6 & 7 Will. 4, c. 96, s. 1: *Reg. v. Bilston*, 13 L. T. (N. s.) 327; 12 Jur. (N. s.) 139; 35 L. J. M. C. 73; 6 B. & S. 908.

By a local Act, the owners of small tenements were empowered to compound for the poor rate in respect of such tenements by the payment of one-half of such rate only. It was held that the deduction for usual tenants' rates and taxes must be made at the full sum allowed for other similar property not in composition, and not according to the sum actually paid by way of composition—i.e., that the owner is entitled to be considered as standing in the place of the tenant, and entitled to the same deductions as are allowed when the rate is payable by the tenant: *Reg. v. Bilston*, 6 B. & S. 902; 35 L. J. M. C. 97; 12 Jur. (N. s.) 159; S. C. *Dodd*, app., *Bilston*, resp., 13 L. T. (N. s.) 589; *Reg. v. Dodd*, 1 L. R. Q. B. 16.

An embankment and drainage rate under a local Act which declared it to be a landlord's tax payable by the landlord, was held a proper deduction, as an expense necessary to maintain the land in a state to command the rent: *Reg. v. Gainsborough Union*, W. N. 1871, p. 213. S. C. *Gainsborough Union*, app., *Welch*, resp., 35 J. P. 773; *Gainsborough v. Gainsborough*, 25 L. T. (N. s.) 589.

compounding for the rates to be assessed on the same, in such manner as they were by any statute or statutes enabled to do before the passing of this Act, so that the gross estimated rental of the hereditaments compounded for be entered on the rate in the proper column (c).

owners from
compounding
for rates.

III. When it shall be made to appear to the poor law commissioners by representation in writing from the board of guardians of any union or parish under their common seal, or from the majority of the churchwardens and overseers or other officers

Power to order
new survey
and valuation.

(c) See 59 Geo. 3, c. 12, s. 19; metropolis 32 & 33 Vict. c. 67, s. 77, 33 & 34 Vict. c. 41; and as to the and Sch. 5.

HEADING OF POOR RATE.

A rate is not invalid, under 6 & 7 Will. 4, c. 96, s. 2, for not following in precise words the prescribed form, if it be duly signed by the churchwardens and overseers before it is allowed: *Paynter v. Reg.* 16 L. J. M. C. 136; 10 Q. B. 908.

Decisions on
sect. 2.

A rate which does not, by its heading or otherwise, show upon its face for what purpose and by what authority it is made, is void; and the addition of the declaration at the end of the rate, required by 6 & 7 Will. 4, c. 96, s. 2, will not cure the defect: *Reg. v. Eastern Railway Company*, 5 E. & B. 974; S. C. Re *Eastern Counties Railway and Overseers of Moulton*, 25 L. J. M. C. 49; 20 J. P. 566.

A poor rate which describes the property in respect of which it is laid as "land, &c.," and omits the "name and situation of the property" and its "estimated extent," is not therefore void: *Ib.*

ALLOWANCE OF POOR RATE.

The duty of the justices in allowing a poor rate since 6 & 7 Will. 4, c. 96, is not judicial or discretionary, but ministerial only, as it was before that Act. A *mandamus* lies to compel them to allow the rate: *Rea v. Yarborough*, 12 A. & E. 416.

The allowance of a poor rate by the justices is purely a ministerial act; and if it be good on the face of it, they cannot inquire into its validity. Where a poor rate had been made by two overseers alone, there being also two churchwardens who had not been sworn in, and the justices had refused to allow it, as not being made by a majority of the parish officers, a *mandamus* to the justices to allow the rate was granted. A rule for a *mandamus* to justices to allow a poor rate is absolute in the first instance: *Reg. v. Lord Godolphin*, 13 L. J. M. C. 57; 1 Car. H. & A. 1.

A poor rate when it is not allowed by the justices is a nullity: *Fox app., Davies, resp.*, 18 L. J. C. P. 48; 13 Jur. 155.

Re-allowance and re-publication will not cure an original defect in the rate: *Reg. v. Great Western Railway Company*, 1 Car. H. & A. 310.

DECLARATION OF FOOT OF POOR RATE.

The words in sect. 2, declaring that a rate "shall be of no force and validity," apply only where the declaration at the foot of the form is not signed by the parish officers; not where the particulars described in the earlier part of the section are deviated from: *Reg. v. Fordham*, 11 A. & E. 73; 9 L. J. M. C. 3.

A poor rate is not invalid because the declaration at the foot of it is not in the very words of the form in the schedule to the Act; and a notice of publication need not state that the rate has been allowed by justices: *Paynter v. Reg.*, 10 Q. B. 908; 16 L. J. M. C. 136, in error.

competent as aforesaid to the making and levying the rate, that a fair and correct estimate for the aforesaid purposes cannot be made without a new valuation (*a*), it shall be lawful for the poor law commissioners, where they shall see fit, to order a survey, with or without a map or plan (*b*), on such scale as they shall think fit, to be made and taken of the messuages, lands, and other hereditaments liable to poor rates in such parish, or in all or any one or more parishes of such a union, and a valuation to be made of the said messuages, lands, and other hereditaments according to their annual value, and to direct such guardians to appoint a fit person or persons to make and take every such survey, map or plan, and valuation, and to make provision for paying the costs of every such survey, map, or plan, and valuation, either by a separate rate or by a charge on the poor rates (*c*), as they may see fit (*d*): but in case of such charge being made, then provisions shall be made for paying off not less than one-fifth of the sum charged on the rates, and such interest as may from time to time be payable in respect of such charge or any part thereof, in each succeeding year, till the whole is repaid.

Power for surveyors to enter and examine lands, &c. for purposes of survey and plans.

IV. For the purpose of making every such survey, map or plan, and valuation, it shall be lawful for the person or persons so to be appointed for making the same respectively, together with their and every of their assistants and servants, at all reasonable times, until the same respectively shall be completed, to enter, view, and examine, survey, and admeasure all and every part of the messuages, lands and other hereditaments aforesaid, and to do or cause to be done any act or thing necessary for making such survey, map or plan, and valuation (*e*): Provided always, that any map, survey, plan or valuation

- (*a*) See 11 & 12 Vict. c. 110, s. 7; (*d*) See 11 & 12 Vict. c. 110, s. 7.
 and 31 & 32 Vict. c. 122, s. 28. (*e*) See 32 & 33 Vict. c. 67, s. 37,
 (*b*) See 5 & 6 Vict. c. 54, s. 13. as to the metropolis.
 (*c*) See 14 & 15 Vict. c. 105, s. 7.

CHARGE ON RATES.

Decisions on
 sect. 3.

Supposing the guardians to have a discretion as to determining the mode of raising funds under 6 & 7 Will. 4, c. 96, s. 3, they can only acquire it in consequence of a direction from the poor law commissioners to them to provide payment in one or other of the ways mentioned in the statute: *Reg. v. Bangor*, 10 Q. B. 91; 16 L. J. M. C. 58; 11 J. P. 260.

Although by the 6 & 7 Will. 4, c. 96, s. 3, in case the expense of a survey is made a charge on the rate generally, provision must also be made for paying off not less than one-fifth of the sum charged on the rates, and such interest as might from time to time be payable in respect of such charge, or any part thereof, in each succeeding year, till the whole is repaid, still the parish officers have power to charge the rate after the end of the five years in order to raise the money remaining due, with interest, and in the particular case, as the applicant had not been guilty of gross negligence, ought to be ordered to do so: *Reg. v. Hurstbourne Tarrant*, 31 L. T. 115; 22 J. P. 321, 817; 4 Jur. (N. S.) 783; 27 L. J. M. C. 214; 1 E. B. & E. 246.

tion made previously to the appointment of such person or persons which shall be tendered to him or them, and which shall be in his or their judgment and to his or their satisfaction a just and true map or survey, proper for the purposes aforesaid, may be used for such purposes.

V. It shall be lawful for any person or persons rated to the relief of the poor of the parish in respect of which any rate shall be made, at all seasonable times to take copies thereof or extracts therefrom without paying anything for the same, any thing in any Act of parliament to the contrary notwithstanding; and in case the person or persons having the custody of such rate shall refuse to permit or shall not permit such person or persons so rated as aforesaid to take copies thereof or extracts therefrom, the person or persons so refusing or not permitting such copy or extract to be made shall forfeit and pay any sum not exceeding five pounds, to be recovered in a summary way before any justice of the peace having jurisdiction in the parish (f) or place.

Power to take copies or extracts of rates gratis.
Penalty for refusal to permit.

VI. The justices acting in and for every petty sessions (g) division shall four times at least in every year hold a special sessions (h) for hearing appeals against the rates of the several parishes within their respective divisions, and shall cause public notice of the time and place when and where such special sessions will be holden to be affixed to or near to the door of the parish church of the said parishes, twenty-eight days at the least before the holding of the same (i); and such special sessions shall and may be adjourned from time to time by the justices there present, as they may think fit: and at such special or adjourned sessions the justices there present shall hear and determine all objections to any such rate on the ground of inequality, unfairness, or incorrectness in the valuation of any hereditaments included therein, which decision shall be binding and conclusive on the parties, unless the person or persons impugning such decision shall, within fourteen days after the same shall have been made, cause notice (k) to be given in writing of his, her, or their intention of appealing against such decision, and of the matter or cause of such appeal, to the person or persons in whose favour such decision shall have been made, and within five days after giving such notice shall enter into a recognizance before some justice of the peace, with sufficient securities, conditioned to try such appeal at the then next general sessions or quarter sessions of the peace, which shall

Justices acting in petty sessions to hold four special sessions in the year to hear appeals.

(f) See 17 Geo. 2, c. 3, s. 2; and 6 & 7 Vict. c. 18, s. 16.
(g) See 12 & 13 Vict. c. 18, s. 1.
(h) See 12 & 13 Vict. c. 18.
(i) See 13 & 14 Vict. c. 101, s. 7.
(k) See 12 & 13 Vict. c. 45, s. 1; and 25 & 26 Vict. c. 103, s. 22.

EFFECT OF STATUTE.

The 6 & 7 Will. 4, c. 96, does not repeal 17 Geo. 2, c. 3, s. 3: *Tennant Decision on v. Cranston*, 15 L. J. M. C. 105; 8 Q. B. 707.

Seven days' notice to be given of objections.

Proviso.

Justices may act with all the powers of justices in quarter sessions.

first happen, and to abide the order of and pay such costs as shall be awarded by the justices at such quarter sessions, or any adjournment thereof (a); and such justices, upon hearing and finally determining such matter of appeal, shall and may, according to their discretion, award such costs to the party or parties appealing or appealed against as they shall think proper, and their determination in or concerning the premises shall be conclusive and binding on all parties, to all intents and purposes whatsoever: Provided always, that no such objection shall be inquired into by the said justices in special session unless notice of such objection in writing under the hand of the complainant shall have been given, seven days at least before the day appointed for such special session, to the collector, overseers, or other persons by whom such rate was made: Provided also, that the said justices in special session shall not be authorized to inquire into the liability of any hereditaments to be rated, but only into the true value thereof and into the fairness of the amount at which the same shall have been rated (b).

VII. The justices present at any such special or adjourned session shall for the aforesaid purpose have all the powers of amending or quashing any such rate so objected to of any parish or other district within their division, and likewise of awarding costs to be paid by or to any of the parties, and of recovering such costs, which any court of quarter sessions of the peace has upon appeals from any such rate, except as herein excepted: Provided always, that no order of the said justices shall be removed by *certiorari* or otherwise into any of His

(a) See 11 & 12 Vict. c. 91, s. 11. c. 23; and as to the Metropolis,

(b) See 17 Geo. 2, c. 38; 41 Geo. 3, 32 & 33 Vict. c. 67, s. 77, and Sch. 5.

APPEAL AGAINST POOR RATE.

Decisions on sect. 6.

Notice of appeal against an order of petty sessions amending a poor rate under 6 & 7 Will. 4, c. 96, was given, and, within five days, recognizance was entered into, which was entered in the minute book of the sessions, from which a record was made and sent to the quarter sessions, but was not signed by the justice who took it as required by the practice of the petty sessions. The quarter sessions, holding that it was imperfect, quashed the appeal; but the court held that the recognizance had been duly entered into, and the sessions ought to have heard the appeal: *Reg. v. St. Albans JJ.*, 8 L. J. M. C. 33; 1 P. & D. 148; 8 A. & E. 932.

The appeal to special sessions, given by 6 & 7 Will. 4, c. 96, s. 6, must be prosecuted within the same time as the appeal to general or quarter sessions, under 17 Geo. 2, c. 38, s. 4; that is at the first practicable sessions: *Reg. v. Trafford*, 15 Q. B. 200; 19 L. J. M. C. 199; 14 J. P. 528; S. C. *Reg. v. Lancashire JJ.*, 4 N. S. C. 130.

A service of notice of appeal to the petty sessions, against a poor rate made upon the overseers and one of the churchwardens, is a sufficient service within the 6 & 7 Will. 4, c. 96, s. 6: *Reg. v. Weedon Beck*, 21 L. T. 139.

The 20 & 21 Vict. c. 43, is not applicable to a decision of justices under 6 & 7 Will. 4, c. 96, s. 6: *Wheeler v. Brimington*, 6 Jur. (N. S.) 698; 2 L. T. (N. S.) 171; 29 L. J. M. C. 175; 24 J. P. 660.

Majesty's courts of record at Westminster : Provided also, that nothing in this Act contained shall be construed to deprive any person or persons of the right to appeal against any rate to any court of general or quarter sessions : Provided also, that no order of the said justices in special session shall be of any force pending any appeal touching the same subject matter to the court of general or quarter sessions of the peace having jurisdiction to try such appeal, or in opposition to the order of any such court upon such appeal.

VIII. This Act shall extend only to England and Wales.

Limits of Act,

* * * * *

SCHEDULE to which this Act refers.

Form of Rate (a).

AN ASSESSMENT for the relief of the poor of the parish of Merton in the county of Surrey, and for other purposes chargeable thereon according to law, made this thirtieth day of March in the year of our Lord one thousand eight hundred and thirty-seven, after the rate of sixpence in the pound.

No.	Arrears due, or if excused.	Name of occupier.	Name of owner.	Description of property rated.	Name or situation of property.	Estimated extent.	Gross estimated rental.	Rateable value.	Rate at 6d. in the pound.
1	£ s. d.	James Smith	John Green	Land and buildings	Whiteacre farm	A. B. P.	£ s. d.	£ s. d.	£ s. d.
2	- - -	ditto	ditto	House and garden	In West Street	40	60	55	1 7 6
3	- - - 7½	John Poor.	ditto	House	In Brick Lane	1	30	25	- 12 6
&c.	Excused &c.	&c.	&c.	&c.	&c.	-	1 10	1 5	- - 7½
						&c.	&c.	&c.	&c.

DECLARATION OF OVERSEERS AND CHURCHWARDENS.

WE, do declare the several particulars specified in the respective columns of the above rate to be true and correct, so far as we have been able to ascertain them, to which end we have used our best endeavours.

Thomas Jones, Overseer,
John Thomas, [Churchwarden, &c. &c.]

(a) As to the metropolis, see 32 & 33 Vict. c. 67, s. 73, and Sch. 4.

6 & 7 WILL. IV. CHAP. 105.

AN ACT for the better Administration of Justice in certain
Boroughs.

[20th August, 1836.]

* * * * *

VIII. Every thing provided under any local Act of parliament to be done exclusively by any particular or limited number, class, or description of the members of any body corporate named in the schedules (A.) and (B.) annexed to the said Act for regulating corporations, the continuance of which is not inconsistent with the provisions of the said Act, and also every thing provided in any such local Acts to be done by the justices, or by some particular class or description of members of such body corporate, being justices, at some court of general or quarter sessions assembled, and which does not relate to the business of a court of criminal or civil judicature, shall and may be done by the council at some quarterly meeting of the council, or by some committee of the council, or any three or more of such committee to be appointed at a quarterly meeting of the council: Provided also, that every thing herein authorized to be done at a quarterly meeting of the council may be done at a meeting of the council to be specially summoned for that purpose as soon as may be after the passing of this Act: Provided also that no recorder by virtue of his office shall have power to allow, apportion, make, or levy, or do any act whatsoever with relation to the allowance, apportionment, making, or levying of any rate whatsoever.

Powers of local Acts heretofore exercised by justices in quarter sessions, and not within the powers of the recorder, vested in the council.

6 & 7 WILL. IV. CHAP. 107.

AN ACT to extend the Period for the Repayment of Loans made under an Act passed in the Fourth and Fifth Years of His present Majesty, for the Amendment and better Administration of the Laws relating to the Poor in England and Wales.

[20th August, 1836.]

WHEREAS by an Act passed in the fourth and fifth years of the reign of His present Majesty, intituled "An Act for the Amendment and better Administration of the Laws relating to the Poor in England and Wales," it is enacted, that when any sum of money shall have been borrowed for certain purposes therein mentioned, the principal sum shall be repaid by annual instalments of not less than one-tenth of the sum borrowed, with

4 & 5 Will. IV. c. 76.

Period for
repayment of
loans already
made may be
extended to 20
years instead
of 10 years.

and in future
advances the
repayment
may be ex-
tended to
20 years.

Extension of
repayment of
loans not to
prejudice the
securities.

interest on the same, in any one year (a): And whereas several loans have been made by the exchequer loan commissioners and by private persons to divers parishes and unions, the amount whereof or of a large part thereof is still due, and it is expedient that authority should be given in certain cases to allow a longer period for the repayment of such money: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that when any money shall have been so borrowed by any parish or union under the direction or with the sanction of the poor law commissioners, it shall be lawful for the exchequer loan commissioners, with the approbation of the lords commissioners of His Majesty's treasury or of any three or more of them, or for any private persons, if they shall see fit, to extend the repayment of the principal sum borrowed under the provisions of the said recited Act and then remaining due, to such a period as, calculating from the date of the charge on the poor rates of such parish or union, would extend the repayment thereof to a period not exceeding twenty years instead of ten years, as provided for by the said recited Act; and in every future advance it shall be lawful for the exchequer loan commissioners, with the approbation of the lords commissioners of His Majesty's treasury, or of any three or more of them, and also for any private persons, if they shall see fit, to extend the repayment of any principal sum so to be borrowed to a period not exceeding twenty years as aforesaid: Provided always, that not less than one-twentieth part of such principal sum and the interest due in each year upon the whole sum remaining due shall be paid off in every year (b).

II. And be it further declared and enacted, that any loans which have or shall in future be made by the said exchequer loan commissioners or by any private persons under the said recited Act, and the period of repayment of which shall be extended under the provisions of this Act, such extension shall be without prejudice to any security or securities taken or which may in future be taken for such sums or advances respectively, and such loans shall by virtue of such extension be repayable at the extended periods in such and the like manner as if such extended periods of repayment had been inserted in such security or securities respectively instead of the periods provided by the said recited Act and set forth in such security or securities respectively.

(a) See 4 & 5 Will. 4, c. 76, s. 24; 31 & 32 Vict. c. 122, s. 35; 32 & 33 1 Vict. c. 25, s. 1; and 7 & 8 Vict. Vict. c. 45, s. 5; and 33 Vict. c. 2, s. 7.

(b) See 24 & 25 Vict. c. 55, s. 9;

